Sectt. M-27—50,003—4-1-52.

Home (1953) Department.

R SERIES.

Memr.

G.O. NOS. 4048-49

Dated 26-11-53

FOR MYSORE STATE

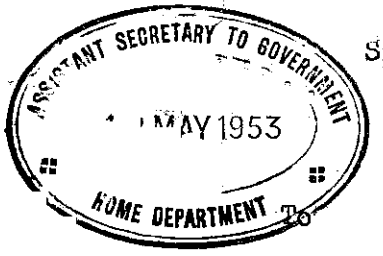
[Despatch Abstract.]

Very Urgent.

No. C1/6324/53.

Office of the
Dt. Supdt. of Police, S.K.,
Mangalore, d/-9-5-53.

From



Sri N. Ramaiah,
Dt. Supdt. of Police,
South Kanara,
Mangalore - 1.

To

The Secretary to the Government of Madras,
Home Department,
Fort St. George,
MADRAS.

Sir,

101326
13/5

Sub:- Petition for mercy - Condemned prisoner P.T. Kuria Kose, Central Jail, Cannanore - S.K. S.C.No. 36/52 - C.A.797/52 before the High Court of Judicature, Madras - Certified copies of Case Diary file forwarded.

Ref:- 1) Judgement dated 16-4-53 of the High Court of Judicature, Madras in Referred Trial No. 15/53.

2) G.O.Ms. No. 4290, Home dated 8-11-51.

*****

With reference to the judgement of the High Court of Judicature, Madras, cited Ist above, 2 certified copies of the Case Diary file in Hosdrug Police Station Crime No. 46/52 u/s 302 and 436 I.P.C. are forwarded herewith. Their receipt may kindly be acknowledged.

Dt. Supdt. of Police,
South Kanara.

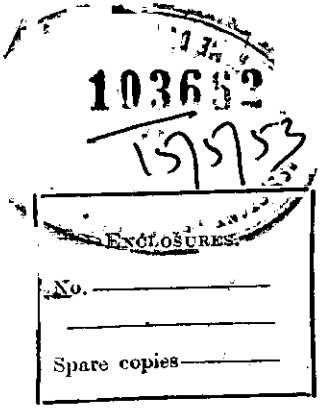
Encl:-2 copies of Case Diary file.

MKP/9/5.

3

H. Ct. Form No. 134-A—1,002—27-1-52.

JUDICIAL DEPARTMENT.



Received ——— 19 . *Registered* ——— 19 .

Subject.

Forwarding two copies of the printed records and two copies of the Judgments of the Court of Session and the High Court in Referred Trial No. (Criminal Appeal No.), in which sentence of death was confirmed.

Ref No. 193/53

Madras. *Dated the* 7—5— 1953

From

DEPUTY REGISTRAR
APPELLATE SIDE,
HIGH COURT OF JUDICATURE,
MADRAS,

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
HOME DEPARTMENT.

Sir,

I am directed to forward herewith two copies of the printed records and two copies of the Judgment of the High Court in Referred Trial No. 15 of 1953 (Criminal Appeal No. 79 of 1952), in which the sentence of death passed on the prisoner P. T. Kuriakose by the Sessions Judge of South Kanara in Session Case No. 36 of 1952 in his file was confirmed by the High Court on 16-4-53

Two copies of the Judgment of the Sessions Court in the case are enclosed.

Your's faithfully,

7.5.53

Deputy Registrar, Appellate Side.

5

Assessor Case

In the Court of Session, South Kanara.

November Session

Present: Sri P. T. RAMAN NAYAR, I. C. S.
Sessions Judge.

Monday, the 8th day of December, 1952

Sessions Case No. 36 of 1952

Names of the accused.

1. P. T. Kuriakose. Death
2. Ulahannan.
3. Thommi *alias* Thomas. 3 yrs RI

Charges.

1. Murder in furtherance of common intention – section 302 read with section 34 I. P. C.
2. Attempt to murder P. W. Ambu Nair in furtherance of common intention — section 307 read with 34 I. P. C.
3. Attempt to murder P. W. Bellachi in furtherance of common intention – section 307 read with section 34 I. P. C.
4. Mischief by fire with intent to destroy dwelling house, in furtherance of common intention – section 436 read with section 34 I. P. C.

against all the accused.

Assessors.

1. Sri H. Madhava Kamath (G. S. Brahmin-Hindu).
2. Sri R. Fernandes (R. C. Christian).
3. Sri P. Raghavendra Suvarna (Billava-Hindu).
4. Sri M. A. Kini (G. S. Brahmin-Hindu).

(Permitted to be absent from 24-11-1952).

Opinion of the assessors.

The assessors (there are only three) are of the opinion that the accused are guilty on all the charges.

Finding of the Judge.

The 1st accused is guilty of offences under sections 302 and 436 I. P. C. Accused 2 and 3 are guilty of offences under the latter portion of the first paragraph of section 307 I. P. C. and also under section 436 I. P. C.

Sentence.

The 1st accused is convicted under section 302 I. P. C. and, subject to confirmation by the High Court, he is sentenced to be hanged by the neck till he is dead. He is also convicted under section 436 I. P. C. and sentenced to undergo rigorous imprisonment for seven years.

Accused 2 and 3 are convicted under the latter portion of the first paragraph of section 307 I. P. C. and also under section 436 I. P. C. and sentenced to undergo rigorous imprisonment for seven years for each offence, the sentences to run concurrently.

The accused were defended by Sri K. M. K. Nair and Sri E. R. O. Menon, advocates, (private defence).

The case was committed by Sri H. Ramesh Rao, Stationary Sub Magistrate, Kasaragod, in R. C. No. 9 of 1952 on his file (F. I. No. 46 of 1952 of Hosdrug Police Station).

J U D G M E N T.

The accused, three brothers, are charged with arson, murder and attempted murder. They plead not guilty.

2. The offences were, according to the prosecution, committed by the accused (who are Syrian Christian settlers from Travancore in the village of Panathady in this district – these settlers have founded a colony of their own called the Rajapura colony) in an attempt to wrest possession of a parcel of land, 5 acres in extent, marked A in the plan, Exhibit P25, from the hands of the deceased and his people. This land (like the lands surrounding it) belongs in jenmam right to the Thekke Kovilagam of Nileshwar. It was uncultivated forest until in Medam (April-May) of 1951 P. W. 18, the local *karyasthan* of the Kovilagam, put the deceased in possession of it in pursuance of an oral lease granted by the Raja. P. W. 18 was present when this lease was granted. The understanding was that the deceased should clear the forest and reclaim and cultivate the land, that he should pay *varam* after the crops began to yield, and that meanwhile he should pay *nigudi porappad* representing the assessment on the land at the rate of eight annas per acre. In due course the deceased was to execute a *marupattam* deed. In pursuance of this arrangement the deceased entered on the land and paid *nigudi porappad* of Rs. 2—8—0 on 16—9—1951 and again for the following year on 23—4—1952 as evidenced by Exhibits P17(a) and P19(a), the counterfoils in the receipt books maintained by P. W. 18, and by Exhibits P18(a) and P20(a), the entries made by him in the *jama* books.

3. In Kumbham (February – March) 1952 the deceased, in pursuance of his lease cleared the forest on the land, (which is in the locality known as Chennakat) put up a hut and took up residence there along with his sister, P. W. 2, and his niece, P. W. 3. The deceased's father, P. W. 1, and his younger brother, P. W. 5, continued to live in their old house in Kallengal about 1½ miles away but they used to work along with the deceased on the new land and sometimes stay in the new house. They planted tapioca and plaintain on the land as also *murikku* cuttings to serve as props for pepper vine and in a portion of the land they sowed paddy. They were in undisputed possession until the accused trespassed on the land on the 19th May 1952.

4. The deceased's possession and enjoyment of the land from Kumbham 1952 is spoken to not merely by the *karyasthan*, P. W. 18, and the deceased's own people, P. Ws. 1 to 3 and 5, but also by P. W. 8, a cooly who was at the time working in the adjoining land, by P. W. 10, the Taleyari, P. W. 11, the Patel, and P. W. 19, the Shanbhogue of the village, and by P. Ws. 13 and 14, two bus drivers, who pass by the land driving their bus four times a day and the latter of whom has raised a pepper garden in the land immediately to the east of this land.

5. About six months before the occurrence (which was in the early hours of the morning of the 20th May 1952) the 1st accused approached the *karyasthan*, P. W. 18, for the grant of what I might, for convenience, call the occurrence land

to him on lease. P. W. 18 told him that he was too late and that the land had been already granted to the deceased. Then, about 20 days before the occurrence, the 1st accused saw P. W. 18 and showed him the registered deed, Exhibit P16, dated 24—4—1952 and told him that by that deed he had obtained an assignment of the leasehold rights in the land from one Andukka (D. W. 4). He also told P. W. 18 that he had seen the Raja and that the Raja had directed that P. W. 18 should put him (the 1st accused) in possession of the land. P. W. 18 looked into the document and found that the land covered by it was not the occurrence land but the land lying east of P. Ws. 14's pepper garden, itself east of the occurrence land. He told the 1st accused so and the 1st accused left the place apparently satisfied.

6. On the morning of Monday, the 19th May, at about *conjee* time, the three accused entered upon the land with a body of men, about 30 strong. They began to hoe the tapioca plot and when the deceased, who was working along with his younger brother, P. W. 5, in another portion of the land, went up to them and asked them what they were about, the 1st accused asked him not to speak a word. The accused and their men next proceeded to dismantle a half complete cattle shed which the deceased had put up near his hut and with the aid of the materials collected by the deceased, to build a dwelling hut there. At about 10 a. m. P. W. 1, the father of the deceased, arrived and he sent the deceased to report the matter to the *karyasthan*, P. W. 18. P. W. 18 promised the deceased that he would go to Hosdrug and seek the aid of the police; meanwhile he enjoined the deceased to do nothing on his own but to keep quiet. (P. W. 18 was, however, unable to go to Hosdrug that day). The deceased returned home and in view of P. W. 18's advice and the overpowering strength of the accused's party neither he nor any of his people raised any further objection to what the accused were doing. By evening the accused and their men completed their new hut and the accused moved into it vessels and other household effects from their permanent residence about three furlongs away. At nightfall they lit a petromax light and hung it up to a post outside the new hut which they occupied.

7. P. Ws. 1 and 5 did not go home to their Kallengal house that night but slept with P. Ws. 2, 3 and the deceased in their hut on the occurrence land. At cock crow the 1st accused came, and standing outside the hut called out to the deceased by name, and asked all the inmates to clear out and go away. This they refused to do. Thereupon, the 1st accused asked his brothers, the 2nd and 3rd accused, who were with him to get torches ready and soon thereafter the three accused set fire to the thatch of the hut. On seeing this the deceased and P. Ws. 1 to 3 and 5 ran out of the hut and went and stood underneath a tree a little distance away. After some time, when the roof of the hut had burnt down, the deceased went towards the hut saying that he would see whether anything could be saved. He was followed by P. Ws. 1 and 2. When he reached the burning hut, the 1st accused, who was still there, asked the deceased why he had come back and ordered him to get out. The deceased declined to go and thereupon the 1st accused turned on him and stabbed him with a knife he was carrying. The blow was directed at the deceased's chest, but the deceased warded it off with his hand and turned and ran northwards with the 1st accused in close pursuit. After running a few steps, the deceased tripped and fell down, face downwards. The 1st accused bent over him and stabbed him in the back. On seeing this, P. Ws. 1 and 2 ran towards the spot raising a hue and cry. As they were running the accused 2 and 3 pursued them and the 2nd accused stabbed P. W. 1, and the 3rd accused stabbed P. W. 2, from the rear. P. Ws. 1 and 2 fell down and soon lost consciousness. Meanwhile, the deceased was lying motionless like dead and the 1st accused on seeing this ran away and disappeared. Accused 2 and 3 and some of their men, who were standing by, near the new hut

constructed by them, pulled down that hut and heaped the materials in front of it and set fire to them.

8. On seeing the deceased and P. W. 2 being stabbed P. W. 3, a girl of 13, and P. W. 5, a youth of about 20, ran to the road bounding the land on the north and stood there for a while. They saw accused 2 and 3 and the others pull down the new hut constructed by them and set fire to the materials. Then they ran home to their Kallengal house 1½ miles away and woke up the deceased's mother and told her what had happened. From there P. W. 5 went to P. W. 18's house 1½ miles away and reported the occurrence to him. P. W. 18 asked him to go and report the matter to the Patel saying that he himself would follow. But, when P. W. 5 returned home on his way to the Patel's house, his mother would not let him go until, late in the afternoon, they heard that the Patel had come to the scene of offence.

9. P. W. 8 is a cooly who, at the time, was engaged by P. W. 14 to work in his pepper garden just east of the occurrence land. He was staying in the deceased's wife's house across the road. (The deceased's wife was living in her own house and according to P. W. 1 had fallen out with the deceased). On the 19th, P. W. 8 was working in P. W. 14's land and he saw the accused and their men trespass on the occurrence land and put up a hut there. That night he was as usual sleeping on the verandah of the deceased's wife's house and at cock crow he woke up on hearing cries from the direction of the deceased's house. He then saw that the house was on fire. He went and stood on the southern bank of the road and had a look and from there he saw the occurrence right up to the time when the three accused stabbed the deceased and P. Ws. 1 and 2. Then he grew frightened and went back to the deceased's wife's house where he remained until daybreak. After daybreak he went to P. W. 18's house and reported the matter to him. P. W. 18, who had already had the news and was just about to leave for the Patel's house sent P. W. 8 in advance saying that he himself would follow after he had attended to some work he had on hand. P. W. 8 then left for the Patel's house about 10 miles away. He had nearly got there when he learnt that the Patel was not at home. Therefore, he returned to the scene of offence which he reached some time in the afternoon and he found the Patel there.

10. P. W. 18, after attending to some urgent work he had on hand, went to P. W. 1's Kallengal house thinking that the injured persons might have been taken there, and on finding that they were not there, proceeded to the scene of offence. He made enquiries of some people on the road and was told that the village Taleyari had already come and seen the injured persons. From the road he saw P. Ws. 1 and 2 and the deceased lying on the ground with accused 2 and 3 sitting near by. He thought it not prudent to go near them and he proceeded to Hosdrug and then to Nileshwar to report the occurrence to his master.

11. Meanwhile, at about 9 a. m., P. W. 10, the Taleyari of the village, who was passing along the road by the scene of offence, heard of the occurrence and went to the scene. He found the deceased's hut burnt down and the deceased lying dead and P. Ws. 1 and 2 lying unconscious with injuries. Accused 2 and 3 were also lying on the ground with injuries, but their injuries did not appear to be serious. Their mother and another woman were also there. P. W. 10 gave P. Ws. 1 and 2 some water and then proceeded to the Patel's house which is in Ayyankavu about eight miles away. At Echikolu, about six miles from the scene, he met the Patel, P. W. 11, and told him the news. The Patel recorded from him the statement, Exhibit P9. Then he went to the Patel's house to fetch the report book and after the report book arrived P. W. 11 wrote up his reports and sent Exhibit P9 with his covering report, Exhibit P10, to the Hosdrug Police Station through another Taleyari with copies to the Sub Magistrate. Exhibits P9 and P10 reached the Hosdrug Police Station 15 miles away at 5 p. m. the same day.

12. After sending his reports, P. W. 11 proceeded to the scene of offence in a passing lorry and he found the deceased lying dead on the ground and P. Ws. 1 and 2 lying near him with serious injuries. P. Ws. 1 and 2 appeared to be barely conscious and were quite unable to speak. A little away from them, accused 2 and 3, who had slight injuries, and their mother and another woman were sitting. P. W. 11 sent P. Ws. 1 and 2 to the Hosdrug Hospital by the evening bus with P. Ws. 5 and 8 in charge. Accused 2 and 3 and their mother also got into the bus. P. W. 11 waited at the spot until the arrival of the police at about midnight.

13. On receiving Exhibits P9 and P10 at 5 p. m. on 20—5—1952, P. W. 20 the Station House Officer, Hosdrug registered a case and left for the scene of offence in a taxi at 6-15 p. m. taking the doctor, P. W. 6, with him. On the way, at about 8 p. m., the bus carrying the injured persons came opposite to them. P. W. 20 stopped the bus and he questioned P. Ws. 1, 2 and 5 and accused 2 and 3 and their mother who were in it. The 2nd accused made a complaint, Exhibit P26, on which a separate case was registered. (This was subsequently referred as false). The doctor went in the bus with the injured persons to the Hosdrug hospital while P. W. 20 proceeded to the scene of offence. There he held an inquest over the body of the deceased. At the scene he found a completely burnt down hut with a basement 18′×8′ 2″ which appeared to be old. On the basement he found the grinding stone and the roller, M. Os. 1 and 1(a), a hearth, and an iron ladle, M. O. 3, a cocoanut scraper, M. O. 4, and the tin container, M. O. 5, all charred. Seven feet from this burnt down hut, he found the basement of another hut 15′×11½′ which appeared to be new, the mud being damp and soft. In front of this, about 10′ away, there were burnt bamboo and wooden posts and cadjan leaves and there were holes in the basement indicating that the superstructure had been dismantled and the materials burnt. There were a large number of household articles on the basement such as copper vessels, eating plates, a steel trunk, mats, a cot and various agricultural implements, not one of which showed any signs of having been subjected to fire.

14. On reaching the hospital, the doctor, P. W. 6, examined the injured persons. On P. W. 1 he found the four incised wounds described in the certificate, Exhibit P2. Of these, one was a stab wound in the back, 4″ below the left shoulder blade and in line with the back of the arm pit. This injury was 1″ long and ¼″ wide and had penetrated the chest cavity, and through the injury, air was entering and escaping. The lung also must have been injured for the man was spitting blood. The remaining three injuries were simple stab wounds 1″×¼″×1″ deep on the right shoulder blade, 3″×½″×¼″ deep on the back of the middle of left upper arm, and ¾″×¼″×¼″ deep on the right thumb. The penetrating injury was very serious and, indeed, P. W. 1's condition was so grave that P. W. 6 was very doubtful whether he would survive.

15. P. W. 2 had suffered as many as ten incised wounds on the left arm, left hand, back and head. (See Exhibit P3). Each injury was in itself simple, the biggest being 2″×½″×½″ deep, but cumulatively they could well have caused death through shock and haemorrhage. However, by the time P. W. 6 saw her, P. W. 2 had largely recovered from whatever shock she had suffered and her condition was not grave.

16. The 2nd accused had four injuries (See Exhibit P4): (1) an incised wound 1″×⅛″×¼″ deep on the dorsal aspect of the ulnar border of the left wrist, (2) an oblique incised wound 1″ long ×¼″×½″ deep cutting the second phalanx of the left index finger on the side of the thumb, (3) an incised wound ½″×⅛″ deep at the root of the left thumb at the side of the index finger, and (4) an oblique abrasion 7″ long across the front of the chest. Injury No. 2 was grievous.

17. The 3rd accused had the four injuries described in Exhibit P5: (1) an oblique incised wound 2″×⅛″×⅛″ deep on the medial aspect of the right thigh, 4″

above the knee, from outside inwards, (2) an incised wound $\frac{3}{4}'' \times \frac{1}{8}'' \times$ [illegible] deep just above the left knee cap, (3) a contusion $\frac{3}{4}'' \times 1''$ on the right temple, and (4) a contusion $1\frac{1}{2}'' \times 1''$ on the medial aspect of lower end of left ulna. The injuries were all simple.

18. The accused's mother, D. W. 8, was complaining of pain as the result of stick blows but P. W. 6 could find no injuries whatsoever on her. He came to the conclusion that she was malingering, for, when he pressed the (alleged) affected parts after distracting her attention, she did not seem to know.

19. P. W. 7, the medical officer, Kasaragod, did an autopsy on the body of the deceased on the afternoon of the 21st May. The deceased had suffered three injuries — see the certificate, Exhibit P7: (1) an incised wound on the right side of the back penetrating the right pleural cavity in the sixth intercostal space; this injury had cut the lower lobe of the right lung and had caused two wounds each $1'' \times \frac{1}{2}'' \times \frac{1}{2}''$ on it; (2) a vertical incised wound on the outside of the right thigh at the level of the knee $2\frac{1}{2}'' \times \frac{3}{4}'' \times 5''$ deep; and (3) an incised wound $\frac{3}{4}'' \times \frac{1}{2}'' \times$ bone deep on the outer aspect of the right index finger. Death, which could have been instantaneous, was probably due to shock and haemorrhage, and perhaps also sudden pneumothorax, resulting from injury No. 1 which was an injury sufficient in the ordinary course of nature to cause death. Injuries 2 and 3 were simple.

20. The injuries on the deceased as also on P. Ws. 1 and 2 and accused 2 and 3 could have been suffered on the morning of the 20th May.

21. On intimation received from the doctor, P. W. 6, P. W. 4, the Sub Magistrate, Hosdrug, went to the hospital at midnight on the 20th and recorded from P. W. 1 the dying declaration, Exhibit P1, now used to corroborate P. W. 1's evidence.

22. There is one other piece of evidence that is relevant to the prosecution case. When the bus driver, P. W. 13, passed by the occurrence land in his bus on its way to Hosdrug at about 2-30 p. m. on 19-5-1952, the 1st accused came to the road from the land (where a new hut was being built) and stopped the bus. He gave P. W. 13 a letter for being handed over to P. W. 15, the manager of the S. K. C. C. W. Stores depot in Hosdrug. (The 1st accused was the keeper of the Rajapura ration shop and had frequent dealings with P. W. 15 from whose depot he drew his supplies). The bus gave trouble on the way and it was very late when it reached Hosdrug. In his preoccupation in getting the bus repaired, P. W. 13 forgot about the letter. It was two in the morning before he got the bus repaired and started on his return journey to Panathady. When he passed by the occurrence land at about four he noticed nothing untoward except that a petromax light was burning in front of the new hut. But when he came back on his way to Hosdrug soon after seven he found both huts burnt down and three persons lying injured on the ground. After reaching Hosdrug, he handed over the letter to P. W. 14 for being delivered to P. W. 15. This, P. W. 14 did at about 10 a. m. on 20-5-1952 and the letter, Exhibit P14, was seized from P. W. 15 by the police on 23-5-1952.

23. Exhibit P14 is admittedly written on the 1st accused's letter head and the handwriting and signature in it have been proved to be his by the evidence of P. W. 15, of P. W. 16, the clerk of P. W. 15's depot, and by P. W. 19, the Shanbhogue of Panathady who is the secretary of the Kallar Co-operative Society with which the 1st accused has had dealings. A comparison of the handwriting and the signature in Exhibit P14 with the 1st accused's signatures in the bond, Exhibit P24, and in P. W. 15's issue register, Exhibit P15, leads to the same conclusion.

24. Exhibit P14 is dated the 19th May 1952 and in it the 1st accused says:

> "A number of us are today working on our tapioca and building a hut and taking up residence there. The others are still in the other hut.

Kelu Nair (P. W. 18) has gone to Kanhangad (Hosdrug). May be for presenting some petition or other. Please make enquiries. ..... You must send 10 Moplas from somewhere or other by this evening. That is absolutely necessary. ..... Come this side tomorrow morning or at least send a man to find out the news. Fight for justice. ..... It is impossible for me to come that side today and tomorrow. ..... You must help in this matter as much as you can. Rest in person if I am destined to see you."

25. The case for the defence as spoken to by the accused themselves and the witnesses examined on their behalf is briefly as follows:

(i) The land in question was never in the possession of the deceased. For the past three years it has been in the possession of the 1st accused, first under an oral lease from D. W. 4, and then under the agreement, Exhibit D9, dated 21-6-1951 followed by the registered assignment deed, Exhibit P16, dated 24-4-1952. D. W. 4's father, Mohammad, had obtained the land on lease from the Nileshwar Raja for a term of 40 years by the deed, Exhibit P21, dated 17-8-1934. That deed comprises two items of property and item No. 1 is the occurrence land. Until his death four years ago, D. W. 4's father was in possession of the land. For a time he lived on it and dug a well and also constructed a channel for bringing water from a stream in the adjoining land. They were raising paddy, horse-gram and other crops from year to year from about 1937 right up to the time of D. W. 4's father's death. After his father's death, D. W. 4 and his mother and brothers and sisters orally leased the land to the 1st accused and followed it with the agreement, Exhibit D9, and the deed, Exhibit P16, by which they assigned their leasehold interest in the land to the 1st accused. For three years the 1st accused and his brothers, accused 2 and 3, were in undisturbed possession of the land. They grew *murikku* props, tapioca, ginger, turmeric and other crops on it and also built a hut in which, while there was work to be done, the 2nd accused and his family used to live, although their permanent residence was in the locality known as Adaka about three furlongsa way. For some time the *karyasthan*, P. W. 18, had been going about saying that he would throw them out of the land by force and the 1st accused sought the intercession of C. W. 1, a rich landlord of Hosdrug, (C. W. 1 was cited as a prosecution witness but. on being given up by the prosecution, was examined as a Court witness at the instance of the accused) from whom he took the letter, Exhibit D2. dated 25-4-1952, to the Raja's nephew requesting him to redress the injustice being done by his *karyasthan*. No purpose was, however, served by this letter, and on the 18th May, two days before the occurrence, P. W. 18 trespassed on the land in the absence of the accused and installed the deceased and P. W. 2 in the hut there. The accused were powerless against the might of P. W. 18; at the same time they were unwilling to give up possession. Therefore, instead of attempting to eject the deceased from the hut, they, with the help of five or six men, put up another hut very near their old one and also worked on the land in assertion of their possession. In the evening they moved household articles from their Adaka house into the new hut with a view to take up residence there and accused 2 and 3 and their mother, D. W. 8, along with the 2nd accused's wife and children cooked their food and slept there that night. The 1st accused himself left for Hosdrug in the evening in order to collect some outstandings and make some purchases. At about midnight, P. W. 18 came there with about 50 men. They beat and dragged accused 2 and 3 out of the hut and asked all of them to get out. When D. W. 8 and the 2nd accused's wife and children declined to go, they pulled down the hut, stacked the materials in front of it, and set fire to them. The fire caught on to the old hut (then in the deceased's occupation) and that hut burnt down. Then accused 2 and 3 and D. W. 8 and the 2nd accused's wife and children left the place and went to their house in Adaka. Meanwhile D. W. 6, a member of the

Rajapura colony, living about a furlong from the occurrence land, had watched what was happening from the road and carried the news to the 1st accused's house and, on learning that the 1st accused was away in Hosdrug, to the 1st accused's brother-in-law, D. W. 7, living three miles west with the request that the 1st accused should be informed. D. W. 7 walked the 14 miles to Hosdrug. He reached there at daybreak and met the 1st accused and told him the news just as he was coming out of church.

(ii) After daybreak, accused 2 and 3 and their mother went to the occurrence land to see what had happened to their belongings. When they entered the land, the deceased and P. Ws. 1, 2 and 5 and about eight or ten others came running from the deceased's wife's house across the road. The deceased rushed at the 2nd accused and stabbed him with a knife shouting, "Get out, you son of a dog." The 2nd accused warded off the blow which struck him on his left forearm. Then the assailants surrounded him, and when the 3rd accused ran to his side some one beat him on the head with a stick. The 3rd accused fell down. When D. W. 8 ran to the spot, she also was felled to the ground with a stick blow on her head. The deceased and his supporters (of whom P. W. 2 also stabbed the 2nd accused with a knife) were intent on killing him and, therefore, in order to save his own life the 2nd accused drew his knife and used it. He brandished it about, but whom it struck, or whether it struck anybody at all, he does not know. When the 3rd accused got up the deceased stabbed him twice. Then accused 2 and 3 and D. W. 8 fell down unconscious. When they regained consciousness they found the deceased and P. Ws. 1 and 2 lying fallen on the ground. In the afternoon the 1st accused came with the Patel, P. W. 11. and others. Then he left for Hosdrug saying that he would fetch a car to take his mother and brothers to hospital. In the evening accused 2 and 3 and their mother were put in a bus along with P. Ws. 1 and 2 and sent to Hosdrug. On the way the police stopped the bus and the Sub Inspector, P. W. 20, questioned P. Ws 1 and 2 and accused 2 and recorded their statements.

(iii) Meanwhile, after reaching Hosdrug on the 19th night, the 1st accused stayed the night in the house of one Manjunatha Kamath. Early next morning he went to church at about 6 a. m. and attended mass where the catechist, D. W. 5, saw him and spoke to him (According to D. W. 5, however, there was no mass that day because the priest was away and the 1st accused, on being told so, left the church at about 6.30 a. m. after joining in the prayers). Just as he was coming out of the church, D. W. 7 brought him the news that his mother and brothers had been beaten and driven out of the land by P. W. 18 and his men who had set fire to the huts in it. So he went to the advocate, D. W. 2, and consulted him. (D. W. 2, however, does not recollect having seen the 1st accused that day. A week earlier the 1st accused and P. W. 15 had gone to him and consulted him about some roadside property in Panathady. On the 20th, some time between 8 and 10 a. m., P. W. 15 went to him at his office and told him that the house on that property had been set fire to. D. W. 2 sent him away saying that he had better go to a criminal lawyer. Being the day after the reopening day of the Court, there was a big crowd in his office and, although he cannot deny that the 1st accused was with W. 15, D. W. 2 does not remember having seen him.) D. W. 2 asked him to report the matter to the Patel. The 1st accused then went to the police station and reported the matter to the station writer. But the station writer sent him away asking him to obtain a report from the Patel. Then the 1st accused went in a passing lorry to the Patel's house. For part of the way D. W. 3, the Firka Supply Officer, Hosdrug, travelled with him and in answer to his questions the 1st accused told him that his house in Panathady had been set fire to and that he was going to the Patel to make a report. D. W. 3 got down at a place about nine miles from Hosdrug. The 1st accused proceeded in the lorry, went to the Patel's house, and told the Patel

(P. W. 11) what had happened and took him, in the lorry to the scene, where they found the huts burnt and the deceased and P. Ws. 1 and 2 and accused 2 and 3 lying on the ground with injuries. P. W. 11 sent him (1st accused) to Hosdrug to fetch a taxi to take the injured persons to the hospital and it was in the taxi engaged by him that P. Ws. 6 and 20 travelled to the scene of offence. On the way they met the bus bringing the injured persons to the hospital. P. W. 6 went in that bus, while P. W. 20 and the 1st accused proceeded in the taxi to the scene.

(iv) D. W. 1 is the Assistant Parish Priest of Panathady and the accused are members of his congregation. He lives about four furlongs west of the occurrence land and he speaks to its enjoyment by the 1st accused and his people for the past three years. At about 11.30 p. m., on 19-5-1952, just as he was saying his prayers preparatory to going to bed, he heard a big commotion from the direction of the occurrence land and on going out to his verandah saw a big fire blazing there. As soon as that fire subsided there was another big fire. Then everything was quiet and he went to bed. After mass next morning, at about 7 or 7.30 he heard that there had been an affray in the land and that people had been stabbed.

(v) The 1st accused denies having written or sent the letter, Exhibit P14. It must have been fabricated by the police on his letter-head. (Among the articles found by the police on the basement of the new hut was a writing pad, M. O. 6, containing a few sheets of paper bearing the 1st accused's letter-head). The 2nd accused denies having made any such statement as Exhibit P26 to P. W. 20. Nothing was recorded from him and nothing was read over to him although, sometime, somewhere, somebody, took his signature on some paper and he finds it now in Exhibit P26. If he said anything at all to P. W. 20 it must have been in accordance with what he now states and not what he found in Exhibit P26.

(vi) The accused add that they and their fellow Syrian Christian settlers are intensely disliked by the people of the locality and that the people of the locality, big and small, headed by the Raja of Nileshwar have conspired to bring this false case against them and have supported it with the false evidence of the underlings of the Raja in the hope of securing a conviction and scaring them and their fellow settlers away.

26. There are three assessors and all the three are of opinion that the accused are guilty on all the charges.

27. On the question of possession, I am satisfied that the occurrence land was in the possession of the deceased and not of the accused. I see no reason to distrust the evidence of the prosecution witnesses on this point. I set no great store by the documentary evidence, Exhibits P17(a), P18(a), P19(a) and P20(a) put forward in proof of the deceased's oral lease. For, in Exhibit P17(a), the Malayalam year, which was first written as 1127, has been converted into 1126 by writing 6 over 7 and this very same overwriting is found in the next receipt, Exhibit D5. The English date, 16-9-1951, under P. W. 18's signature is no doubt correctly written and Exhibit P17(a) is a page of a receipt book the pages of which are numbered in print. But then there are only five more receipts in the book after Exhibit P17(a) and all of them bear the date 16-9-1951. The remaining pages are all cancelled. In Exhibit P20(a), the entry in the *jama* book for the payment of the following year, we find an erasure and an overwriting. It might be, as P. W. 18 says, that these were mere mistakes; but I would not altogether exclude the possibility of P. W. 18 having created these documents to bolster up the case of the deceased's possession, after coming to know that 1st accused was getting up documents in his own favour. (The date of Exhibit P19(a) and P20(a) namely 23-4-1952 is suspiciously near the date of 1st accused's assignment deed Exhibit P16 which is of the date 24-4-1952.) But that might be good

ground for viewing P. W. 18's evidence with some degree of suspicion; it is no reason for suspecting the evidence of the remaining P. Ws. P. Ws. 10, 11, 13, 14 and 19 are respectable witnesses of the locality who have personal knowledge in the matter and I believe them when they say that the deceased and his people were in occupation of the land, and of the house in it, from about three months before the occurrence.

28. Exhibit P25 is the plan of the locality prepared by the village Shanbhogue, P. W. 19, and he has given evidence with reference to the boundaries shown in Exhibit P16 and Exhibit P21 that the land covered by Exhibit P16, and described as item No. 1 in Exhibit P21, is not the occurrence land which is marked A but the plot marked K east of P. W. 14's plot marked J. These documents show the southern boundary of the land conveyed under them as Raja's forest and Aisamma's *kuzhikanom* land. Aisamma's *kuzhikanom* land is the plot marked L and no portion of it adjoins the occurrence land. South of the occurrence land is the Raja's forest and nothing else. I do not think that a man in the position of P. W. 19 would dare come forward on a matter like this with a falsehood which could so readily be exposed. And in the light of this evidence, D. W. 4's claim that the occurrence land was held by his father on lease under Exhibit P21 and was orally leased, and later assigned by his heirs, to the 1st accused under Exhibit P16 must be rejected.

29. The agreement, Exhibit D9, bearing the date 21-6-1951 and the registered deed, Exhibit P16, dated 24-4-1952 are in the same handwriting and in the same ink and look suspiciously as if they were written at the same time. The stamp paper on which Exhibit D9 is written was not bought in the name of any of the parties to that document but in the name of one M. Hanumantha Shanbhogue of Pallikere. It looks very much as if, when taking the assignment under Exhibit P16, the 1st accused was creating evidence of prior possession.

30. If, as spoken to by D. W. 4, crops were raised on the land from year to year from 1937 onwards *varam* must have been paid to the *jenmi*. Admittedly no *varam* was paid and this again supports the prosecution case that the land was not brought under cultivation until this year. The extistence of a dry well in the land is explained by the Taleyari, P. W. 10, who says that about 25 years ago one Perundotta Koran Nair, the father-in-law of the deceased, cleared a portion of the forest on the occurence land and dug a well there with a view to settle on it. But since he found no water he moved across the road to the north and built a house and settled down there.

31. The evidence of D. W. 1 and D. W. 6 regarding the 1st accused's enjoyment of the land is not of much value. The former is a Syrian Christian priest from Travancore and the latter a Syrian Christian settler of the Rajapura colony, and it is not surprising that they should align themselves with the accused. Frankly, I am not impressed with the former's evidence and with his story that after seeing the fire and hearing the commotion on the 1st accused's land, (the occurrence land) at 11.30 p. m. on the 19th, he went to bed giving no further thought to the matter and making no enquiries although he was casually told of the affray the next morning.

32. The day after obtaining the assignment, Exhibit P16, the 1st accused went to C. W. 1 with the complaint that P. W. 18 was threatening to dispossess him of the land by force. This may, no doubt, be construed as a circumstance in his favour. But it might as well be that he was merely staking a claim to the land by obtaining the assignment deed, Exhibit P16, from D. W. 4 and then asserting that he was in possession. If he was really in undisturbed possession for three years, one fails to see why he should have gone to C. W. 1 merely because he had heard it said—P. W. 18 never said anything to him direct—that P. W. 18 was intent on driving him out of the land or why, more than a week before the occurence, he should have consulted the lawyer,

D. W. 2, regarding the property. Or again why, after having allowed him to enjoy the land peacefully for three years, P. W. 18 should have suddenly taken it into his head to drive him out. Ist accused's letter, Exhibit P14, the authenticity of which there is not the least reason to doubt, makes it clear that on the 19th May, the others, obviously the deceased's people, were in possession and that he and his men were determined to enter into possession by putting up another hut and occupying it and that he wanted reinforcements in the shape of Moplas to help him in his fight. The complaint, Exhibit P26, made by the 2nd accused—and here again there is no reason to think that P. W. 20 recorded anything other than what the 2nd accused told him; each page of Exhibit P26 bears the second accused's signature—states that the deceased and his people were on the land from about 1½ weeks before the occurence and, although the case put forward there is that they put up a small *pandal* on the land, it is now the common case that, on the 19th, they were in occupation of the house standing on the land and that it was the accused's party that put up the new house. From what accused 1 and 2 themselves have stated it is fairly clear that their disposeession. if dispossession there was, must have been before the 1st accused went with his comlaint to C. W. 1 on the 25th April.

33. Reliance is placed on the evidence of C. W. 1 to the effect that his recollection is that the occurrence land was under tapioca cultivation for the past two or three years and that he has seen the 1st accused on the road by the side of the land. But C. W. 1 is a person who lives in Hosdrug. He has only passed by the land by car and has never actually stopped there. In fact, it was only after the occurrence, that he noticed the land in particular and all he is able to state is that, while on the northern side of the road, portions of the forest were being cleared and holdings formed since the past seven or eight years, it is only since two or three years that cultivation has commenced on the southern side of the road. He is unable to say when exactly the occurrence plot was cleared. P. Ws. 10, 11, 14 and 19 on the other hand are local people with day to day personal knowledge. P. W. 14 is admittedly in possession of the land immediately to the east. And P. W. 13 passes by the land at least four times a day. Even making due allowance for the fact, which is more or less admitted, that the Syrian Christian settlers are not popular with the local inhabitants—P. W. 18 has admitted that his master, the Raja, is on principle opposed to giving land to them—and that one of the local inhabitants has been killed, and two others seriously injured, I find it difficult to believe that all these persons have conspired to come forward with a false case against the accused. As I have already stated, I accept their evidence that, from about three months before the occurrence, the deceased and his people were in possession of the land and were living on it.

34. I might perhaps mention that P. W. 15 has stated in his cross examination that a year ago, when he went to the land just west of P. W. 14's pepper garden for the purpose of getting *murikku* cuttings for his own garden in Kallar some distance away, he found a small hut on the land with two Christian women in occupation. This evidence seems to me artificial. P. W. 15, is, there can be no doubt—and this is clear from the evidence of the lawyer, D. W. 2,—a friend and supporter of the 1st accused. He is appearing, very reluctantly, for the prosecution.

35. Coming to the occurrence itself I see no reason to doubt the version put forward by the prosecution. Dealing first with the 1st accused's *alibi* I might say that his statement in the committing Magistrate's Court was that he spent the night of the 19th in P. W. 15's house. P. W. 15 was not asked anything about this and now the 1st accused's version is that his statement, Exhibit P27, was not correctly recorded by the committing Magistrate and that what he really said was that he spent the night in P. W. 15's brother's son's house. But there could have been no mistake, for the 1st accused was specifically questioned with

reference to P. W. 15's denial that he was in his house and in answer he affirmed that he stayed in P. W. 15's house on the night of the 19th and that P. W. 15's brother's son was there. However that might be, the brother's son is not a witness and there is nothing except his own contradictory statements in support of the 1st accused's case that he was in Hosdrug on the night of the 19th. In fact the letter, Exhibit P14, handed over by him to P. W. 13 at 2.30 p. m. on the 19th makes it quite clear that he had no intention of going to Hosdrug either that day or the next. Having, as he has admitted, built a new hut on the land and moved in there in assertion of his possession as against the deceased who was in occupation of the old hut on the land, it is most unlikely that the 1st accused would have left for Hosdrug in order to collect outstandings. Nor do I believe the story that he went to Church at 6 the next morning, only the catechist having seen him, the priest being conveniently absent. It is true that there is the evidence of the Firka Supply Officer, D. W. 3, that some time after 8.30 a. m. on 20-5-1952 the 1st accused stopped and boarded a lorry in which he (D. W. 3) was proceeding from Hosdrug. But the scene of offence is only 20 miles from Hosdrug and the road is mostly downhill so that after the occurrence, which was at cock crow, it was by no means impossible for the 1st accused to get to Hosdrug on a bicycle in a matter of two hours or so.

36. Even the 1st accused's presence at the Hosdrug church at 6.30 a. m. or so is not an impossibility. But, as I have already remarked, I am not impressed with D. W. 5's evidence on this point. The mass, even according to D. W. 5, begins only at 7 a. m. and there is no reason why the 1st accused should have gone there earlier than that. We have already noticed the discrepancy between the 1st accused's statement that he went to church and attended mass and D. W. 5's evidence that there was no mass that day because the priest was away.

37. P. Ws. 1, 2, 3, 5 and 8 have given cogent and convincing evidence which is substantially in accord with what P. W. 1 stated in his dying declaration Exhibit P1. P. W. 1 sustained very serious injuries and, during the interval, he was mostly unconscious. The evidence of the Magistrate, P. W. 4, shows that even when he made the statement, Exhibit P1, P. W. 1 was in distress and was unable to speak continuously. He made the statement bit by bit after pauses. The chances of concoction either by P. W. 1 himself, or at the instance of others, seem to me unlikely.

38. Much is made of the circumstance that Exhibit P1 reads as if the arson and the stabbing were two separate incidents. The relevant portion of Exhibit P1 reads thus:–

> "They (accused 1, 2 and their men) set fire to our house. We went and stood under a tree near by. When it was morning we returned to our place. Then Onnan (the 2nd accused), Kuriyakose (the 1st accused) and Thommi (the 3rd accused) came and told us that we should not remain there. Onnan stabbed me with a knife. Kuriyakose stabbed my son Kunhiraman (deceased). Thommi stabbed my daughter Vellachi (P. W. 2) with a knife."

I do not think that this is inconsistent with the present case. "When it was morning" does not necessarily mean, after daybreak, and the fact that Exhibit P1 reads as if the arson and the stabbing were two separate transactions might well be due to the fact that P. W. 1 made his statement in disconnected sentences. His condition was very grave; he was unable to speak clearly; and the statement he made was a very short and bald statement.

39. It is argued that none of the neighbours has been examined as a witness. But the only house in the neighbourhood is that of the deceased's wife some distance across the road. P. W. 8, who was in that house, is a witness and

has spoken to the prosecution case. His evidence is, however, criticized on the score that the deceased's wife's brother, who was admittedly sleeping by his side when he woke up and ran towards the spot on hearing the cries, is not a witness. But the evidence both of P. W. 1 and P. W. 8 is that the deceased's brother-in-law was at the time suffering from an injury to his eye and was unable to move out of the house. When P. W. 8 went back to the house he told the deceased's brother-in-law what had happened.

40. How it happened that none of the eye-witnesesses carried the news to the Patel and how the first information came to be a bald statement by P. W. 10 (who was not an eye-witness) to the effect that the deceased was lying dead and P. Ws. 1 and 2 and accused 2 and 3 were lying injured on the land by the side of two burnt down huts has already been explained. P. Ws. 1 and 2 fell down unconscious beneath their wounds and there was no question of either of them going to the Patel. P. W. 3 is a little girl of 13 and P. Ws. 5 and 8 did what they considered best in the circumstances, namely, report the matter to P. W. 18, the local *karyasthan* of the owner of the land. On the other hand, accused 2 and 3 sustained injuries of a comparatively petty nature which could by no means have prevented them, if their case were true, from taking steps to report the case to the authorities. Even when the Patel, P. W. 11, came to the scene they had no report to make; they thought of making a complaint only when the Sub Inspector, P. W. 20, questioned them. The 1st accused's case that it was he that took the Patel to the scene, and that he asked the Patel to send a report, was not put to the Patel himself when he was in the box. Nor was his case that he travelled with the Sub Inspector, P. W. 20, to the scene on the 20th night put to that witness. The Patel, P. W. 11, denied the suggestion that the 1st accused was in the lorry by which he went to the scene and P. W. 20 has stated that he saw the 1st accused for the first time on the 22nd. If the accused's case that accused 2 and 3 and their mother were beaten and driven out of the land at about midnight on the night of the 19th were true, it is strange that no information was carried to the authorities until the 2nd accused was questioned by P. W. 20 on the night of the 20th.

41. Although in Exhibit P26 the 2nd accused said that all their household effects were burnt, it was in fact found that none of the articles on the basement of the new hut, constructed by the accused, was subjected to fire. The case of both sides now is that the superstructure was pulled down and heaped some distance in front of the house and set on fire. If this was done, as the accused would have it, by P. W. 18 and his men, they must have had an unbelievable solicitude for the preservation of the accused's belongings. I also find it difficult to believe that, after having been beaten and driven out of the land by an army of men, over 50 strong, accused 2 and 3 and their mother would have dared to come back by themselves the next morning to see what had happened to their household effects.

42. The injuries sustained by accused 2 and 3 were petty, although the cut on the 2nd accused's left index finger was technically grievous. The possibility of their being self inflicted cannot be excluded; it is also possible that they were sustained in the course of these accused's attack on the deceased and P. Ws. 1 and 2 or while they cut down the superstructure of the new hut before setting fire to it. It is highly improbable that these petty injuries were the result of deliberate stabs by the deceased and his large number of supporters. Still more improbable that the aggressors despite their preparedness and overpowering numbers suffered such heavy casualties while the victims escaped virtually unscathed.

43. On the other hand the injuries sustained by the deceased and P. Ws. 1 and 2 are quite consistent with the prosecution case. They are inconsistent with the case for the defence that the 2nd accused, in self-defence, just waved his knife

about. The deceased suffered three stab injuries, P. W. 1 four, and P. W. 2 as many as ten; and all of them were so located that they must have been inflicted from the rear.

44. As we have seen, the letter, Exhibit P14, written by the 1st accused on the 19th afternoon betrays an unmistakable determination to launch an offensive that night. This is in complete accord with the prosecution case and hardly consistent with that of the defence.

45. There can be no doubt on the evidence, that the three accused were bent on driving the deceased and his people away from the land, by the use of force if necessary, and that they set fire to the deceased's dwelling house in furtherance of their common intention. However, with regard to the injuries inflicted on the deceased and P. Ws. 1 and 2, I am not quite so certain that a common intention was present. It is true that the accused were prepared to use force but there is nothing to show that their murderous assault on the deceased and P. Ws. 1 and 2 was pre-concerted. Rather, it seems to be, that it was the result of a sudden impulse provoked by these persons coming back to the house from which they had been driven away. No doubt there must have been a pre-arranged plan, and a common intention, to eject the deceased and his people from the property; but it does not appear that the use of knives for the purpose was part of the plan or was something which was a probable consequence. When the accused resorted to their knives, each seems to have acted on his own, although no doubt prompted by the example of the others, and I think that, in respect of the injuries inflicted on the deceased and P. Ws. 1 and 2, each accused can be made liable only for his own physical acts.

46. In stabbing the deceased in the back with a knife with such force as to penetrate the pleural cavity and pierce the lung the 1st accused must have intended to cause the deceased's death or, at any rate, to cause him bodily injury sufficient in the ordinary course of nature to cause death. Likewise, in inflicting the stab wounds on P. Ws. 1 and 2, the intention of accused 2 and 3 must have been to cause death or, at least, cause injury sufficient to cause death. And the injuries they succeeded in inflicting might well have proved fatal, especially in the case of P. W. 1.

47. I convict the 1st accused under section 302 I. P. C. and, subject to confirmation by the High Court, I sentence him to be hanged by the neck till he is dead. I convict him also under action 436 I. P. C. and sentence him to suffer rigorous imprisonment for seven years.

48. The 1st accused is informed that if he wishes to appeal he must do so within seven days.

49. I convict the 2nd and 3rd accused under the latter portion of the first paragraph of section 307 I. P. C. and also under section 436 I. P. C. They will suffer rigorous imprisonment for seven years for each offence, the sentences to run concurrently.

Dictated to the shorthand writer, transcribed by him, and pronounced in open Court, this, the 8th day of December, 1952.

P. T. RAMAN NAYAR,
Sessions Judge.

N. B. The accused will be lodged in the Central Jail, Cannanore.

APPENDIX

THE FOLLOWING WITNESSES WERE EXAMINED FOR PROSECUTION:

1. Sri Ambu Nair.
2. Srimathi Bellachi.
3. Kumari Parvathi.
4. Sri P. Kunhi Anandan Nair (Sub Magistrate).

5. Sri Ambu Nair.
6. Dr. M. Keshava Pai (Honorary Medical Officer, Local Fund Dispensary, Hosdrug).
7. Dr. T. E. Unny (Civil Assistant Surgeon, Kasaragod).
8. Sri Raman Nambiyar.
9. Sri K. Srinivasa (P. C. 555).
10. Sri Ambu (Taleyari).
11. Sri M. Kunhiraman Nambiyar (Patel of Panathady village).
12. Sri P. K. K. Nambiyar (Clerk, Stationary Sub Magistrate's Court, Hosdrug).
13. Sri Laxman Naik.
14. Sri Ananda.
15. Sri Keshava Kamath.
16. Sri K. Chandu Nair.
17. Sri Kunhambu Nair (Patel of Belur I village).
18. Sri Kelu Nair.
19. Sri H. Madhava Bhat (Shanbhogue).
20. Sri J. Anantharaman (Sub Inspector of Police).

FOR DEFENCE:

1. Rev. Fr. Simon
2. Sri N. K. Nambiyar (advocate).
3. Sri K. V. Ramunni Nair (Firka Supply Officer, Hosdrug).
4. Janab Anduka.
5. Sri Paulos.
6. Sri Pokumba Mathai.
7. Sri Mani.
8. Srimathi Yeli.

FOR COURT:

1. Sri M. K. Nambiyar.

THE FOLLOWING EXHIBITS WERE FILED FOR PROSECUTION.

P1.	21— 5—1952.	Dying declaration of P. W. 1, Sri Ambu Nair, recorded by the Sub Magistrate, P. W. 4.
P2.	23— 5—1952.	Wound certificate granted by P. W. 6 Dr. Keshava Pai, in respect of the injuries on P. W. 1 Sri Ambu Nair.
P3.	23— 5—1952.	Wound certificate granted by P. W. 6, Dr. Keshava Pai, in respect of the injuries on P. W. 2 Srimathi Bellachi.
P4.	23— 5—1952.	Wound certificate granted by P. W. 6 Dr. Keshava Pai, in respect of the injuries the 2nd accused Ulahannan.
P5.	23— 5—1952.	Wound certificate granted by P. W. 6, Dr. Keshava Pai, in respect of the injuries on the 3rd accused Thomas.
P6.	23— 5—1952.	Wound certificate granted by P. W. 6, Dr. Keshava Pai, in respect of the injuries on D. W. 8, Srimathi Yeli, (mother of the accused).
P7.	22— 5—1952.	Post mortem certificate granted by P. W. 7, Dr. T. E. Unny, in respect of the examination of the corpse of deceased (Kunhiraman Nair).
P8.	17— 7—1952.	Portion (re-examination at page 6) marked in the deposition of P. W. 7, Dr. T. E. Unny.
P9.	20— 5—1952.	Statement of the Taleyari P. W. 10, recorded by the Patel, P. W. 11.
P10.	20— 5—1952.	Report of the Patel, P. W. 11, to the officer-in-charge of the police station at Hosdrug.

P11.	10— 6—1952.	Office copy of the letter of the Sub Magistrate, Hosdrug, forwarding the properties to the Chemical Examiner, Madras, for examination.
P12.	19— 6—1952.	Report of the Chemical Examiner, Madras.
P13.	23— 6—1952.	Report of the Government Serologist, Calcutta.
P14.	19— 5—1952.	Letter of 1st accused P. T. Kuriakose addressed to P. W. 15 Sri Keshava Kamath.
P15.	15— 5—1950. to 30— 6—1951.	Issue register of the South Kanara Central Co-operative Wholesale Depot, Hosdrug.
P15 (a).	19— 5—1950.	Signature of 1st accused in the Issue Register, Exhibit P15, at page 4.
P15 (b).	22— 6—1950.	Signature of 1st accused in the Issue Register, Exhibit P15, at page 11.
P15 (c).	8— 7—1950.	Signature of 1st accused in the Issue Register, Exhibit P15, at page 15.
P15 (d).	22— 5—1950.	Signature of 1st accused in the Issue Register, Exhibit P15, at page 5.
P15 (e).	19— 9—1950.	Signature of 1st accused in the Issue Register, Exhibit P15, at page 31.
P15 (f).	30— 9—1950.	Signature of the 1st accused in the Issue Register, Exhibit P15, at page 33.
P16.	24— 4—1952.	Registered assignment deed executed by Kallar Anduka (D.W. 4) and others in favour of 1st accused.
P17.		Counterfoil receipt book No. 10 of Kollam 1126 of Thekkekovilagam.
P17 (a).	16 — 9—1951.	Counterfoil of Receipt No. 75 in Exhibit P17.
P18.		Jama book of Kovilagam relating to Panathady for Kollam 1126.
P18 (a).		Item No. 439 in Exhibit P18.
P19.		Receipt book No. VI of Kollam 1127 of Thekke Kovilagam.
P19 (a).	23— 4—1952.	Connterfoil of receipt No. 51 for Kollam 1127 in Exhibit P19.
P20.		Jama book of Kovilagam relating to Panathady village for the Kollam 1127.
P20 (a).		Item No. 439 in Exhibit P20.
P21.	17— 8—1934.	Registered *kuzhikanom marupatam* executed by Mahammad in favour of Kerala Varma Thamburan of Thekke Kovilagam.
P22.	16— 9—1951.	Receipt for *nigudi porappad* granted by Kelu Nair, P. W. 12, to Anduka, D. W. 4.
P23.		Receipt book No. 2 for Kollam 1127 of Thekke Kovilagam.
P24.	9— 8—1951.	Loan bond executed by 1st accused to the Kallar Co-operative Society No. 4544.
P25.		Plan of the scene of offence.
P26.	20— 5—1952.	Complaint of 2nd accused recorded by the Sub Inspector P. W. 20.
P27.	7— 8—1952. 12— 8—1952. 14— 8—1952.	Statement of the 1st accused in the committal Court.
P28.	7— 8—1952. 12— 8—1952. 14— 8—1952.	Statement of the 2nd accused in the committal Court.

P29.	7— 8—1952. 12— 8—1952. 14— 8—1952.	Statement of the 3rd accused in the committal Court.

FOR DEFENCE:

D1.	8— 7—1952.	Portion marked (at page 3) in the deposition of P. W. 2 Srimathi Bellachi in the committal Court.
D2.	25— 4—1952.	Letter of C. W. 1, Sri M. K. Nambiar, to Sri Ravi Varma Raja.
D3.	17— 7—1952.	Portion marked (at page 5) in the deposition of Dr. T. E. Unny, P. W. 7. (Exhibits P8 and D3 are portions of one document).
D4.	20— 7—1950.	Signature of 1st accused at page 18 of Exhibit P15.
D4(a).	20— 1—1951.	Signature of 1st accused at page 49 in Exhibit P15.
D4(b).	13— 7—1950.	Signature of 1st accused at page 16 in Exhibit P15.
D4(c).	29— 7—1950.	Signature of 1st accused at page 20 in Exhibit P15.
D4(d).	27— 2—1951.	Signature of 1st accused at page 56 in Exhibit P15.
D5.	16— 9—1951.	Counterfoil of receipt No. 76 granted to P. W. 14 by P. W. 18 (in Exhibit P17).
D6.		Certified copy of plan in respect of R. S. No. 274/1 of Panathady village.
D7.	21— 5—1952.	Portion in the certified copy of the statement of Raman Nambiyar, P. W. 8, before the Sub Inspector P. W. 20, under section 162 Cr. P. C.
D8.	23— 5—1952.	Portions in the certified copy of the statement of Laxman Naik, P. W. 13, before the Sub Inspector, P. W. 20, under section 162 Cr. P. C.
D8(a).	Do.	
D9.	21— 6—1951.	Agreement executed by Anduka (D. W. 4) and 2 others in favour of 1st accused.

MATERIAL OBJECTS MARKED:

1. Grinding stone.
1(a) Roller of M. O. 1.
2. Granite stone piece.
2(a) Do.
2(b) Do.
2(c) Do.
2(d) Do.
3. Half burnt iron ladle.
4. Cocoanut scraper.
5. Empty tin container.
6. Five blank sheets of letter paper with letter head of 1st accused.
7. Half burnt cadjan torch.
7(a) Do.
8. Knife produced by 2nd accused.
9. Knife seized from 1st accused.

(Sd.) P. T. RAMAN NAYAR,
Sessions Judge.

True Copy

No. of words 12012.

Sessions Judge.

Srinivas Printing Works, Mangalore.

The Accused Nos.2 and 3 were directed to be released on bail by Order of the High Court, dated 23-12-1952 on Criminal Miscellaneous Petition No.3081 of 1952.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Thursday, the sixteenth day of April,
One thousand nine hundred and fifty three.

Present:-

The Honourable Mr. Justice Balakrishna Ayyar.
and
The Honourable Mr. Justice Chandra Reddy.

Referred Trial No. 15 of 1953.

P.T.Kuriakose Prisoner.(1st Accused.)

Trial referred by the Court of Session of the South Kanara Division for confirmation of the sentence of death passed upon the said prisoner in Case No. 36 of the Calendar for 1952.

CRIMINAL APPEAL NO. 797 of 1952.

1. P.T.Kurakose
2. Ualahannan
3. Thommi alias Thomas Appellants.(Accused 1 to 3)

Appeals by the said prisoners against the sentences of death passed upon the 1st accused and the sentence of R.I. for seven years passed upon each of them in the said case.

This case coming on for hearing on Friday, 27--3--1953 and Monday and Tuesday, 30--3--1953 and 31--3--1953, upon perusing the petition of Appeal, the record of the evidence and proceedings of the said Court of Session and upon hearing the arguments of Mr. V.L.Ethiraj, for Mr. M.C.Sridharan Advocate for the Appellants accused and of the Public Prosecutor on behalf of the State and the case having stood over for consideration till this day, the court delivered the following:-

JUDGMENT.

(Judgment of the Court delivered by Balakrishna Aiyar J)

The accused who are three brothers are the appellants.

24

-2-

The Sessions Judge, South Kanara, has convicted the first appellant under section 302 I.P.C., of the murder of one Kunhiraman Nayar and sentenced him, subject to confirmation by this court, to death. He has also convicted and sentenced him under section 436, I.P.C. to undergo rigorous impsionment for seven years. The second and third appellants have been convicted under Sections 307 and 436 I.P.C. and sentenced to undergo rigorous imprisonment for seven years on each count, the sentences to run concurrently. These offences are said to have been committed on the 20th May. 1952 in a place called Chennakad in Panathady village.

2 The case for the prosecution was this. A certain number of Syrian Christians belonging to Travancore have moved north and founded a colony called Rajapuram in the village of Panathady in South Kanara. All the accused in this case are members of that colony.

3 The Thekke Kovilagam of Nileshwar represented by the Raja of Nileshwar owns the jenmem right in a large block of forest land in Panathady village. Survey No. 274, measuring about 2000 acres, is part of the Raja's forest land. Some twenty five years ago one Koran Nair, the father in law of of the deceased, cleared a small portion of this forest immediately sough of the Hosdrug Panathady Road and dug a well in it. But, since he could strike no water he abandoned the land which reverted to jungle. After abandoning this land Koran Nair built for himself a house a little away to the north and on the other side of the road. Some time in 1950 the deceased met Kelu Nair, the Kariasthan of the Raja P.W.18) and told him that he would like to take on "Marupattam"

25

the land which his father-in-law had attempted to clear and cultivate. The Kariasthan referred the deceased to the Raja. Accordingly the deceased met the Raja and under the instructions of the Raja P.W.18, the Kariasthan, measured out the plot and put the deceased in possession of it. This was in Medam 1126--April May 1951. The area of the plot so handed over was about 5 acres. The deceased cleared the fresh growth of forest and in Kumbam (February-March, 1952) he built a hut thereon and lived in it with his sister P.W.2 and her daughter P.W.3. In the land that he obtained and cleared the deceased planted tapioca and plantain. He also put down about a thousand props with the view of planting pepper.

4 The accused were anxious to get at this land. Some six months before the murder was committed the first accused met P.W.18 and asked that this property be assigned to him on Marupattam. P.W.18 replied that the land had already been granted to the deceased and that the first accused was too late. The accused therefore had resort to other methods. On 17--8--1934 the Raja had granted on Kuzhikkanam marupattam two plots of land in the neighbourhood to a moplah named Mammad -See Exhibit P-21. By a document dated 24--4-52 the first accused obtained an assignment of the first of the two plots comprised in Ex. P-21 from certain persons of whom are Anduka D.W.4, a son of Mammad who had in the meantime died. See Ex. P-16. It may be explained here that the case of the accused was that even three years before the date of Ex. P-16 the first accused had obtained possession

of the property on an oral lease from D.W.4 and that ever since he was in possession of it. The first accused pressed for the assignment of the land and accordingly D.W.4 and two other heirs of Mammad executed on 21--6--1951 an agreement, Ex. D-9, in favour of the first accused agreeing to convey their leasehold interest in the property. Rs.200/- was paid on the date of Ex. D-9 and the balance was subsequently paid and Ex. P-16 was executed. It will be as well to mention here that the suggestion for the prosecution was that the Ex. D-9 was brought into existence not on the date which it bears but long after, and contemporaneously with Ex. P-16, and, that this suggestion was accepted by the learned Sessions Judge.

5 Equipped with this show of title the first accused went to Kelu Nair P.W.18. and told him that he had obtained an assignment of the land from Anduka and asked to be put in possession. Kelu Nair examined Ex. P-16 and thereafter explained to the first accused that it was not the land which was in the possession of the deceased but/some other plot further away. On 25--4--1952 the first accused met C.W.1, M.K.Nambiyar, a friend of the Raja and (--here I quote from his evidence--)

> "wanted a letter from me to Ravi Varma Raja nephew of the Senior Raja of Nileshwar. Accused I told me that there was a plot of land belonging to the kovilagam of which he (accused 1) was in possession and which the kovilagam Kariasthan Kelu Nair was

27

"threatening to take by force. He told me that the land was in Melekkal in Panathady village and that the Raja was the ~~Nonni~~ Janmi. Accused 1 told me that he had a leasehold interest in the land which he had recently bought from a Moplah and he also showed me some papers. I went through the sale deed and thought that what accused 1 said was true and accordingly gave him a letter to Ravi Varma Raja. Two days later I go ~~km~~ a reply from the Raja. Accused 1 came to me again about a week later and I gave him the reply."

This reply has not been filed, but it may perhaps be assumed that it was not favourable to the accused.

6 On 19--5--1952 the first accused apparently decided to take more direct, drastic and effective measures to get possession of the land. That emerges from Ex. P-14, a letter which he wrote to P.W.15. The letter is of considerable importance and is therefore quoted in extenso.

"P.T.Kuriyakose
Palavananikal House,
Allar

Rajapuram P.O.,
(via) Kanhangad,
19--5--1952.

Always dear Keshava Swamy,

This day we and some of our men are working at our tapioca cultivation and are ~~xxx~~ living in a building we have put up in it. The others are in the other huts still Kelu Nair has gone to Kanhangad. Might be for filing some petitions. Make enquiries about everything and inform Kunhi Kannan Nambiar and Kumaran Nair, vakil-Sir. You must send 10 Moplahs from somewhere by telling that Soopi or any other , by this evening. This is absolutely necessary. Apart from this, send 50 rupees and rice about which I told

you yesterday. If it is possible to come this dide to-
morrow morning or send a man to know the particulars.
(Neethikku Vendi Poraduga) Fight for the right. A man
should be helped while he is in distress. Please know this.
You know that I am standing in ~~a~~ a pit. It is impossible
for me to come that side today and tomorrow. I do not know
what has happened, after Kelu Nair went and returned. There-
fore I request you to help me in this matter as much as
you can. Rest in person if it should be possible to see you.

Yours,

(signed) P.T.Kuriakose.

K.Kesava Kamath,
Hosdrug Kottacherry."

It may be stated here that at the trial the first accused repudiated this letter and claimed that it had been fabricated to prejudice the case against him: But its genuineness was established beyond the possibility of controversy. It was written on note paper bearing the letter head of the first accused. P.W.15 to whom it was addressed identified the signature in it as that of the first accused. He was unable to identify the writing because the letter is in Malayalam and P.W.15 does not know that language (He had the letter read over to him by a man working in a depot) P.W.15 it may be mentioned was certainly not a person with any bias against the accused. P.W.16, a clerk working in the depot of P.W.15, also deposed that the signature and the hand-writing in Ex. P-15 looked like that of the first accused. P.W.19, the Shanbhogue or village accountant of Panathady, who had opportunities of knowing the handwriting and

signature of the first accused was very clear:—

> "I have seen him (Accused-1) write and sign on many occasions. I can read Malayalam. Exhibit P-14 is in accused 1's handwriting and the signature in it is also his."

7 Mr. Ethiraj, the learned Advocate for the appellants, so fully recognised the futility of contending that Ex. P-14 was not written and signed by the first accused that he admitted that his clients were not very wise in taking in the trial Court the line they did in respect of that document.

8 Attention may be at once drawn to certain points in this letter. One notices the request of the first accused to P.W.15 to send up ten Moplas. They were wanted by that evening. The first accused wanted to drive home the point by adding "this is absolutely necessary." The theory for the prosecution is that the first accused had made up his mind to eject the deceased and his relations from the land, by the use of force and that the Moplas were wanted to act as shock-troops. The next thing to note is the statement of the first accused that,

> "It is impossible for me to come that side to-day and to-morrow."

This statement has a bearing on the plea of alibi which the first accused took. A further point to note is that it is usual for a person writing a letter in Malayalam to end up by saying "rest in person". This letter, however, closes on a very different note. It says, "Rest in person If it should be possible to see you."

The suggestion for the prosecution is that this rather unusual mode of ending the letter was adopted because the first accused was preparing for a "show-down" and was himself not sure how it would all finally go.

There was some delay, however, in the transit of this letter. The first accused handed it to P.W.13, a bus driver at about 2-30 P.M. and requested him to deliver it to P.W.15. The bus gave trouble on the way with the result that P.W.13 was much later than usual when he reached his destination and for a time he forgot all about the letter. The result was that Ex. P-14 was handed over to P.W.15 only at about 10 A.M. the next morning.

Meantime, other importance events took place-In the morning of the 19th May-even before the 1st accused handed over Ex. P-14 to the bus driver-the three accused together with some thirty other persons entered on the land of the deceased and started weeding amidst the tapioca which he had planted just as though it were a routine piece of work. They dismantled a cow shed which the deceased had been putting up but had not completed. They also put up a hut in the proximity of that which the deceased had erected. When the deceased protested the first accused threatened him. Seeing that the accused and their men were in such large numbers and in superior strength the deceased and his relations were afraid to interfere directly. So P.W.1, the father of the deceased, sent the deceased to report the matter to Kelu Nair whose residence was two miles away. About mid-day the deceased come back and said that Kelu Nair had asked him to keep quiet and do nothing and that

he(Kelu Nair) would inform the police and see that matters were set right. "Kelu Nair particularly wanted us to take no action." By evening the accused and their men had completed their hut and before nightfall they brought in food cobking utensils, cots and other articles from their house nearby, and, placed them in the hut they had put up. They also brought a gas light which they lit at night fall.

In view of these events P.W.1 did not go to his house that night. After their night meal he, his son(the deceased and his younger brother P.W.5, their sister P.W.2, and her daughter P.W.3, lay down in their filed hut. Some time before day break on 20--5--1952 P.W.1 woke up on hearing the bus for Panathady gopast along the road. At day break the first accused went to the hut and called the deceased by name. When the deceased stepped out of the hut the first accused told all of them to clear out of the building. When they refused the first accused replied that he would see to it that they did go out. Under the directions of the first accused his brothers, the second and third accused rolled up cadjan torches with which they set fire to the thatch of the hut. The fire spread rapidly and of ~~necessarily~~ necessity the inmates rushed out. They went and stood under a tree, a little distance away.

When the roof ~~fell~~ fell in the deceased and P.W.2 went to the place to see if anything could be salvaged. Thereon the first accused asked the deceased why he had returned and told him to clear away. The deceased replied that he would not go even if he were to be killed. On that the

first accused stabbed the deceased with a knife which he had with him. The deceased parried the thrust with one arm and ran. The first accused pursued him. The deceased tripped and fell down on his face. Thereupon the first accused bent over him and stabbed him on the back once or twice. P.W.2 ran to the first accused crying out to him not to kill the deceased. P.W.1 followed P.W.2. The third accused pursued P.W.2, and stabbed her five or six times from behind with a knife. Likewise the second accused stabbed P.W.1 over his right shoulder and also on his left flank. P.W.1 fell down unconscious. Immediately afterwards the first accused appears to have left the spot. The second and third accused of the people who had come in, then pulled down the they themselves had constructed the previous day and removed the materials a little away and set fire to them.

13 In addition to P.Ws. 1, 2, 3 and 5 who had been sleeping in the hut that night, P.W.8 also speaks to these events. He had been working on the 19th May in the field of P.W.14 which is immediately east of that in which these events took place and on the night in question had been sleeping on the verandah of a house a little north of the road.

14 P.W.3 (she is a girl of about 13 years) and P.W.5 ran to the house of P.W.1 and told his mother of the deceased all that had happened. She asked P.W.5 to go and report to P.W.18, Kelu Nair. Kelu Nair told P.W.5 to go to the village Patel adding that he himself would follow a little later. On that P.W.5 first came back home. When he started on his journey to the Patel's house his mother would not let him to. She seems

to have feared that her sons life would be imperilled if he tried to go to the Patel. Half an hour after P.W.5 left P.W.18 P.W.8 went and told him that the accused had burnt the deceased's house and had stabbed him (i.e the deceased) and P.Ws. 1 and 2. P.W.18 instructed P.W.8 to go and tell the Patel. In view of that Kelu Nair presumed that he need not hurry himself about seeing the Patel.

15 A certain number of people were working under Kelu Nair that day and he gave them instructions about their work for the day. Thereafter he went to the house of P.W.1 to see if the injured persons were there. Not finding them there, he went to the road near the scene of occurrence which he reached at about 9-30 A.M. Some people were standing on the road and they told him that the Talayari had been there. From the road Kelu Nair was able to see P.Ws. 1 and 2 and the deceased lying on the ground and Accused 2 and 3 sitting there. On seeing Kelu Nair accused 2 and 3 got up. Kelu Nair feared that he might be harmed if he went to the land and so continued to stand on the road. Presently a bus came up and he got into it and went away to the Raja's Madam in Hosdrug. Here he met the Raja's nephew and told him what had happened. This done, he proceeded to Nileshwar and reported to the Raja.

16 About 9 A.M. on 20--5--1952 P.W.10, the Talayari of the village who was out on collection duty, came to the scene of offence. He found five persons lying on the ground. They were the deceased(he was of course already dead) and P.Ws. 1 and 2 and accused 2 and 3. The mother of the accused and another woman were also there. The thatched hut in which the deceased

and his relations had been living had been burnt to the ground. He gave some water to P.Ws. 1 and 2. They were unconscious and unable to talk. Accused 2 and 3 were conscious and they did not appear to the witness to be seriously injured. Presently the Talayari left for the house of the Patel, which is about eight miles away to report the matter to him. He, however, met the Patel at a point about six miles away from the scene of occurrence and made a report. That report Ex. P-9, reads:

> "To-day morning on my way to Panathady, when I reached a place called Malekkal, I saw Kattoor Kunhiraman Nayar lying dead on the southern side of the road, and his father Cheviri Ambu Nayar and Ambu Nayar's daughter lying in a pool of blood with grievous injuries and also two persons Onnan and Thomman lying with injuries. Two houses closeby are found to have been burnt down. On enquiry it is learnt that this unhappy incident has taken place on account of property dispute. I am giving this information."

17 After recording Ex. P-9 the Patel sent P.W.10 to fetch his report books. After they were brought he drew up his reports to the Magistrate and the police and despatched them through another Talayari. That done,

the Patel proceeded to the scene of occurrence in a lorry which was passing by. He found that Kunhi Raman Nayar was dead. Near him lay P.Ws. 1 and 2 with serious injuries on them. Though they appeared to be conscious they were unable to speak. A little away Accused 2 and 3 were sitting. The injuries on accused 2 and 3 were slight. About 5 P.M. a bus for Hosdrug came up. The Patel had P.Ws. 1 and 2 carried to the bus Accused 2 and 3 and their mother also got into the bus. Seeing that P.Ws. 1 and 2 were in bad condition the Patel sent P.W. 5 and P.W.8 to help them while he stayed on at the spot waiting for the police to arrive.

18 In May 1952 P.W.20 was the Sub Inspector of Police, Hosdrug. He received the report of the Patel at 5 P.M. on the 20th May and sent off express reports to all concerned. At 6--15 P.M. he left for the scene of

TvT/

scene of occurence in a taxi along with a doctor P.W. 6. At about 8 P.M. he met the bus which was coming up with the injured persons. He stopped the bus and questioned P.Ws. 1 ,2 , and 5 and Accused 2 and 3 as also the mother of the accused. The second accused made a complaint which he reduced to writing. That was marked as Ex. P-26 by the learned Sessions Judge. The defence objected to Ex. P-26 being marked on the ground that it was hit at by Section 162, Cr1.P.C. The learned Sessions Judge however ruled:-

> "Exhibit P-26 cannot be regarded as a statement recorded in the course of the investigation into the present offence although undoubtedly the present offence was under investigation at the time. It is an independent complaint made by accused 2 and is relevant under section 8 of the Evidence Act. The mere fact that the present offence (in which the accused was not even named) was under investigation at the time does not make this complaint by accused 2 a statement falling under section 162 Cr1.P.C. in respect of the present offence.

It is unnecessary for us to express any opinion on the view taken by the learned Sessions Judge, since, we do not propose to rest any part of our conclusion in this case to any extent on this document.

The Sub Inspector detached P.W. 6 the doctor whom he had brought with him and sent him back in the bus in which the injured persons were travelling . He reached the scene of offence about mid-night. What the Sub Inspector saw at the scene of offence is best described in his own words:-

"At the scene I found the deceased lying dead at the spot marked 'C' in the plan Ex. P-25. Seventy feet south east of this at the point 'F' I found a burnt down hut. The basement which was of of mud appeared to be old

The superstructure was completely burnt and nothing remained excepting burnt out poles and ash. On the basement I found the grinding stone and roller---.. Also five stones..... arranged to form a hearth. I also found the half burnt iron ladle..... the cocoa-nut-scraper,.. with (its) wooden base charred, and the tin container M.O. 5. I seized these articles. I did not find any pots or even broken pieces of pots in this basement. At the spot '@' about 7 feet north east of 'E' I found another mud basement which appeared to be new. The mud was fresh and soft and damp.

.. .. There were eight wooden posts lying half burnt about 10 feet north of the basement and in the basement were holes indicating that the posts had been pulled out from them. There was one post still standing on the basement but it appeared to have been chopped off 34 inches above the ground level. On the basement I found a number of house-hold articles such as copper vessels, eating plates, a steel trunk, mats, tumblers, a cot , a bed lamp, pickaxes, hoes and other agricultural implements, etc., ... To the east of the basement I found the two half burnt cadjan torches.. . ..... and green fresh split bamboos. No articles on the basement showed any signs of having been subjected to fire. About 10 feet away to the north of the burnt

"basement I found a heap of ~~babees~~ bamboos and wooden posts half burnt and charred and the remains of partly burnt cadjan thatch."

20 About midnight on 20-5-1952 P.W. 4 the Sub Magistrate Hoadmug went to the local hospital where he recorded a statement Ex. P-1 from P.W. 1

A 110-11

21 P.W. 6 the doctor who had returned in the bus in which the injured persons were travelling , examined them thoroughly after he reached the hospital. P.W. 1 had four injuries on him. No. 1 was an incised wound 1 inch long ½ inch wide and one inch deep on the back at the medial border of the right scapula at the level of the spine of the scapula. No. 2 was an incised wound 3 inches long ½ inch wide and ¼ inch deep on the back of the middle of left upper arm. No. 3 was a horizontal stab wound 1 inch long and ¼ inch broad which had penetrated into the chest cavity and allowed entry and exit of air in the posterior axillary line 4 inches below the interior angle of the scapula on the left side. The lung must also have been injured. This injury was grievous and sufficient in the ordinary course of nature to cause death. No. 4 was only a small cut wound on the right thumb. The condition of P.W. 1 was very bad and the doctor had grave doubts whether he would survive. The doctor observed,

"In fact I am surprised, ~~at~~ ~~xxxxxxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxx

"her condition was not grave. I do not know much shock she had and cannot say whether cumulatively the injuries were such as to endanger life. Such injuryes could by their cummulative effect produce sufficient shock and haemorrhage to cause death. I would not be surprised if I was told that she fell down unconscious on sustaining these injuries. That is quite likely."

22 The second accused had four injuries. No. 1 was an incised would 1 inch by 1/8th inch by ¼ inch on the back of the left wrist. No. 2 was an obligue incised wound 1 inch by ¼ inch, cutting the second phalanx of the index finger of the left hand. That was a grievous injury because the bone had been cut. No. 3 was an incised small cut wound at the root of the left thumb. No. 4 was only an abrasion. The second accused told the doctor that the injuries had been caused by violence with a knife and bill hook at 8 A.M. on 20-5-1952. According to the doctor.

"they could have been caused at the time and in the manner alleged".

23 The third accused had four injuries. No. 1 was an oblique incised wound 2 inches by 1/8 inch by 1/8 inch above the right knee. No. 2 was a small incised wound ¼ inch by 1/8 inch by 1/8 inch above the left knee cap. The third was a contusion over the right temple and the fourth was a contusion on the medial aspect of lower end of left ulna. The injuries were all simple. The third accused told him that the injuries were caused at 8 A.M. on 20-5-52 by violence with a stick and a knife. The injuries could have been caused as alleged.

24 The mother of the accused 2 and 3 was also one of the persons brought to the hospital. She complained of pain as

a result of stick blows. But the doctor was unable to discover any injury on her. He explained.

"I could find no signs of injury whatsoever on the mother of the accused and came to the conclusion that she was malingering because after I had diverted her attention by asking the compounder to talk to her I pressed the portions where she complained of pain and would not let me touch previously and she did not appear to know."

25 P.W. 7 the Assistant Surgeon, Kasargod performed the autopsy on the body of the deceased. There were three injuries on it. No. 1 was an incised wound on the right side of the back 1½ inches by ½ inch penetrating into the right pleural cavity through the sixth intercostal space. Internally the doctor found that the lower lobe of the right lung had been cut in two places. That was a grievous injury and sufficient in the ordinary course of nature to cause death. Death appeared to have been caused by shock and haemorrhage and the possible air rush into the chest cavity, as a ~~result~~ result of this injury. Injury No. 2 was on the outer side of right thigh, a little above the knee. It was 2½ inches by ¾ inch by 5 inches. No bone or major blood vessel had been cut. No.3 was an incised wound on the right index finger. To cause injury No. 2 the blade of the weapon used must have been 5 inches long.

26 The Sub Inspector laid the charge sheet in the case on 6-6-1952.

27 When he was examined by the committing Magistrate the first accused gave this explanation. The plot on which

the occurrence took place had been demised by the Raja of Nileshwar to a Mopla called Mammad and that man had sunk a well and dug a channel in it. He, the first accused, had obtained possession of this land from Anduka, a son of Mammad. He had been in possession of this land for three years and had also effected improvements on it. He had also paid "nigwdhi porappad" and obtained receipts. The deceased was never in possession of the land at all. The Shanbhogue or village accountant had prepared a false plan to suit the prosecution in this case. Ex. P-14 is not a letter that he wrote. His letter pad was in the box at the scene of the occurrence and this letter had been concocted after removing a sheet from that pad in order to implicate him in this case.

He was not on the land at the time these offences were committed. On 19-5-1952 he had gone to the house of Keshava Kamath, (P.W. 10 in the committing court and P.W. 15 in the Sessions Court) and spent the night at his house. His nephew and his brother's son were also there. On 20-5-1952, in the evening at 5.'0 clock he, (the 1st accused) the Sub Inspector , a constable and P.W. 6 went to the doctor 's house, took medicines and went to the scene of offence in a taxi belonging to one Abdul Khader which was driven by Ananda, P.W. 14.

It appeared from the evidence that the articles found on the basement of the hut in which the deceased was said to have been living, had been damaged by fire whereas the properties found on the basement of the house alleged to have been built by the accused were not so effected. The first accused was asked whether he desired to say anything in explanation of this circumstance and he then stated:

"It is not correct to say that the deceased was residing (in the house). Our house and our articles have been burnt. As the roof of another house was pulled down and set fire, the articles there were not burnt. Another house means the house occupied by my mother and brother. As the house occupied by me was set fire and burnt, the articles in it were stained with soot."

In the Sessions Court the first accused stated that the explanation he had given in the committing court, Ex. P-27 was right except in one or two respects. He spent the night of the 19th not in the house of Keshava Kamath (P.W. 15 in the Sessions Court) but in the house of his brother's son. That brother is dead and his name was Vajunath. "His son's name I do not know. We merely call him 'Sami'. The 1st Accused added,

"what I have stated in Ex. P-27 is the truth. There is another error in it. What I said was that my old hut was burnt and that the new hut in which my mother and brother were living was pulled down and the materials burnt. I did not say that I was living in the old hut."

The 1st accused further explained that the evidence given by the witnesses for the prosecution to the effect that the deceased was in possession of the property is completely false. The receipts and jama books about which Kelu Nair gave evidence have been fabricated. He heard from various sources that Kelu Nair did not like their being on the land and he had been threatening to eject him. That is why he interviewed C.W. 1 and obtained a letter from him to the Raja. The Raga gave him no reply.

"Two days before the occurrence during our

" absence P.". 18 trespassed on the land and installed the deceased and P.W. 2 in our hut. We were helpless and wanted to avoid trouble. So, near the old hut we constructed a new hut with materials we ~~have~~ had already collected. We had been thinking of putting up a new hut for some time since the old hut did not suffice for our needs. My mother and accused 2 and his family and accused 3 took up residence in the new hut while the deceased was living in our old hut."

In the evening of the 19th he went to Hosdrug in a passing lorry for collecting money due to him for tapioca and other articles that he had sold. That night he ~~stated~~ stayed in Hosdrug in Manjunath's house. Early next morning he went to Hosdrug Church and attended mass. At about 7 A.M. when he was returning from the church to the house of Manjunath Kamath he heard that his huts had been burnt and that his brothers and mother had been beaten and driven out by Kelu Nair and his men. So he went to the house of a vakil Kumaran Nair by name to obtain his advice. But, that lawyer happened to be absent. So he went to N.K. Nambiar, another vakil and sought his advice. He suggested that the first accused should go to the Patel and make a report. Instead, however, he went to the Station and told the Station writer. The Station writer insisted on his getting a report from the Patel.

> "Then I went to the Patel's house in Odeyanchal about 12 miles from Hosdrug on the Panathady Road in a lorry going to Rajapura Stores. Supply Officer Raman Nair was in the lorry."

He met the Patel and reported to him. The Patel accompanied him to the lorry, which was waiting on the road two or three furlongs away. On the way he learnt from two

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Christians who live near Chennakad about what had happened in the land about 7 o'clock in the morning. Then he and the Patel went to the scene of offence.

"All that the prosecution witnesses have said is false. P.W. 18 has concocted the entire case against us and the Patel and P.W. 20 have joined him. We are poor people from Travancore ~~came~~ come to eke a living here. The Nileshwara Raja and other big people of the area including P.Ws. 11 and 18 do not like us. We settlers from Travancore are also disliked by the natives of the place. Hence all of them have joined together to concoct this false case to drive us and the other Travancore settlers out of the place."

When the second accused was questioned by the committing Magistrate he supported his brother's statement that they had been in possession of the land on which the events under trial took place. He also supported the statement of his brother the first accused, that he had gone to Kanhangad. The evidence of the witnesses for the prosecution is false.

"Men on behalf of the Thamiran (Raja of Nileshwar) P.W. 8 (Velu Nair), some Harijans and the deceased also came for rioting. They were armed with kathis (knives) and guns. They frightened us. They bodily pulled us out and ~~set~~ set fire to the house. They did bodily trouble to us.

.. ..

I fell down injured. Who all came and what all happened, I do not know."

The statement of the Talayari that they were able to walk is not true. Their house was burnt down with some old

old articles in it. The house in which he, his wife and children and the third accused were living was pulled down and the articles were taken a little away north and burnt That is why some of the articles were not stained with soot. When the Thambiran's people came he explained,

"I used the knife only for the protection of my body. I did not observe whether there was blood in it."

33 In the sessions Court he stated that he had heard the first accused making his statement and had nothing to add to it so far as title and possession of the property is concerned. He continued:

"For some days before the occurrence we were not living in the hut in the occurrence land but were living in our house three furlongs away. Taking advantage of our absence P.W. 18 trespassed on the land and installed the deceased and his people in our hut. This was on the 17th May or so. On the 19th myself, accused 1 and 3 and four or five workmen went and built a new hut near old one into which the deceased and his people had trespassed. We moved household articles into this new hut and myself and my wife and two children ar accused 3 and my mother took up resident there. On the 19th evening accused 1 left for Hosdrug. That night at about midnight P.W. 18 came with a number of charmas and others more than 50 strong and asked us to get out of the house. We declined. Then the Charmas dragged us out of the house and beat us and pushed us to the road. We went to our permanent resident three furlongs away. After necking us out of the property P.W. 18's men pulled down our new hut

and set fire to the materials. From that fire our old hut caught fire and burnt down. Next morning (Tuesday) at about seven myself and accused 3 and our mother went to the land to collect our belongings. Meanwhile we had sent word to accused 1 at Hos- drug of what had happened. When we went there to take our things the deceased and his wife and P.Ws. 1,2,5 , one Koman Nair about 12 persons in all came rushing at us armed with knives and sticks. They beat us asking us why we had come back. They also stabbed us. P.W. 2 stabbed me with a small knife. The deceased aimed a stab at my heart. I warded it off with my hand and the knife struck my left forearm. There was a scuffle between us. Accused 3 and my mother came running towards us. The deceased's supporters beat them and felled them to the ground. To save my life I took a knife from my waist and waved it. I swished it about . But whether it struck anybody I do not know. It is that knife M.O. 8 that I handed over to the Sub Inspector. I became unconscious. After a long time I regained consciousness and sat up and found accused 3 also with bleeding injuries. In the afternoon accused 1 came with P.Ws 11, 19 and many others in a lorry. Accused 1 left to fetch a taxi to take us to hospital. I told the Patel what had happened.

.. ..

This is what really happened. As accused 1 has explained , the Nileshwar Raja and other big people

of the locality who hate all Travancore settlers have joined together and concocted this false case and set up their tenants and other dependants to give false evidence against us."

34 The explanation which the third accused gave both before the committing Magistrate and the Sessions Judge, do not raise any points not covered by the explanation of the first and second accused. It is therefore unnecessary to summarise it separately.

35 Eight witnesses were examined on behalf of the defence.

36 D.W. 1 is the Assistant Parish Priest of Panathady. He deposed that he lives in a house about four furlongs away from the scene of offence. That land has been in the possession of the accused. About 11.30 P.M. on a Monday in May 1952 when he was praying in his room he heard cries and shouts from the east. Looking from the verandah he saw a big fire in the land of the first accused. After that fire subsided there was another big fire. Then the neighbourhood was quiet and he went to bed. The next morning after mass he heard that there had been an affray in the locality and that some people had been stabbed.

37 D.W. 2 is an advocate practising in Hosdrug. He deposed that on 19-5-1952 the first accused went to him in the company of P.W. 15 between 8 and 10 A.M. On the 20th P.W. 15 saw him in his office and told him that the house on the property about which they had consulted him had been set fire to. D.W. 2 referred them to a criminal lawyer.

38 D.W. 3 is a clerk in the Taluk Office, Hosdrug. In May 1952 he was working as Firka Supply Officer. He deposed that at about 8.30 A.M. on 20-5-1952, he was going from Hosdrug to Belur to inspect a ration shop. About a furlong away from Hosdrug the first accused stopped the lorry and

boarded it. He told him that he was going to Panathady to report to the Patel as he had heard that his house had been set fire to during his absence at Hosdrug the previous night.

D.W. 4 is Anduka through whom the accused traced title and possession of the property in question D.W. 4 confirmed that he actually put the first accused in possession of it some three years before the date of Ex. P-16.

D.W. 5 is a catechist of the Catholic church of Kanhangad. According to him at about 6 A.M. on 20-5-1952 he saw the first accused in Kanhangad Church. He had come there thinking that there would be mass, but it chanced that the parish priest was absent and so there was no mass.

D.W. 6 is a Syrian Christian of Travancore who has been living in Panathady village for about eight years. For the past three years the property in question has been in the possession of the first accused who derived title from a Moplah. On the night of the 19th -20th May, when he was sleeping in his hut about a furlong away, he heard a commotion from the land of the accused. He went towards the place and stood on the road opposite and watched. He saw P.W. 18 ,P.W. 1 and the deceased and some fifty others on the land. These persons pulled down a new hut which the accused had erected earlier that day and set fire to the materials. From this fire the old hut which stood near by took fire. A little to the sough of the burning hut he saw accused 2 and 3. He also heard their mother's cries. He did not see the first accused there. Seeing all this happen he ran to the permanent house of the accused , about two furlongs to the west , evidently to give information. The

first accused was not in the house, but his sister and some children were there and he told them what happened. He learned that the first accused had gone to Kanhangad. He was asked to meet one Mani and request him to carry the news to the first accused. This he did and Mani left for Kanhangad.

D.W. 7 supported the story of the defence that the accused was in possession of the property in question and that he had grown various crops thereon. On the night of a Monday about six months before December 1952, D.W.6 woke him up and told him what had happened and desired him to go to Kanchangad and inform the first accused who had gone to the place. He walked all the fourteen miles and reached Kanhangad by day break. He met the first accused coming out of the church and told him what had happened. The two of them went to a vakil after which the first accused left him saying that he would go to the Patel.

D.W. 8 is the mother of the accused and she supported the story of her sons.

The question of possession of the property on which the various events took place has looked large in this case and may be considered first. P.Ws. 8,10,11,13, and 14,18, and 19—seven of them have given evidence that this plot was in possession of the deceased. The learned Sessions Judge, who had an opportunity of watching the witnesses when they were in the box, has elected to believe them and we consider that he was clearly right in having done so. P.W. 8 though he belongs to a place near Kasargod, had been working in this village for four months and all the time had been sleeping in the house of one Madhavan Nair, across the road. P.W. 10 is the Malayari of the place and his duties would naturally and frequently take him over the entire area of the village and he was therefore well placed to know who the persons in actual

were. This remark also applies though not in an equal degree to P.W. 11 the Patel of the village. It is true that P.W. 13 is a bus driver and does not live in the locality But the plot abuts on the road and he goes past it about four times a day, and, therefore, he too could have known who the persons living in the hut working on the plot were. He was very specific.

> "The deceased and one or two women were living in a hut on the occurrence land ever since I began working on that line in February 1952. I have seen the deceased working on the land while passing that way. The deceased had planted plantain trees and Murukku props in the land.

P.W. 14 holds on marupattam from the Raja a plot of land immediately to the east of the "occurrence plot" and he has been in occupation of it for two and half years. He is therefore a most competent witness to speak about the factum of possession. P.W. 18 is the Kariasthan Kelu Nair, and his evidence, it will be remembered, was that under the orders of the Raja he measured out the land and put the deceased in possession of it. P.W. 19 is the Shanbhogua or village accountant a man as entitled to speak about the enjoyment of the property as P.W. 10 the Talayari, and P.W. 11 the Patel. We find it difficult to believe that all these witnesses are wilfully giving false evidence.

In addition we have got the four documents, Exs P-17(a) P-18 (a), P-19 (a) and P-20 (a). Ex. P-17 (a) purports to be receipt granted by Kelu Nair to the deceased for a sum of Rs. 2-8-0 paid in respect of this property on 16-9-1951 and Ex. P-18 (a) is the corresponding entry in the Jama book, that is the collection book, maintained by Kelu Nair. Likewise Ex.P-19 (a) purports to be a receipt granted by Kelu Nair to the deceased for a sum of Rs. 2-8-0 paid in respect of this

this property on 23-4-52. The corresponding entry in the Jama book is Ex. P-20 (a); The learned Sessions Judge remarked

"I set no great store by the documentary evidence, Exs P.17 (a), P-18 (a), P-19 (a) and P-20 (a) put forward in proof of the deceased's oral lease .. .. ..

I would not altogether exclude the possibility of P.W.18 having created these documents to bolster up the case of the deceased's possession, after coming to know that 1st accused was getting up documents in his own favour. (The date of Ex. P-19 (a) and P-20(a) namely 23-4-52 is suspiciously near the date of 1st accused's assignment deed Ex. P-16 which is of the date 24-4-1952)"

We are inclined to consider that the learned Sessions Judge was being unduly suspicious about these documents. One circumstance which aroused his suspicion was that. In Ex. P-17 (a) the date according to the Malabar Calendar was first given as 30th Chingam, 1127 but subsequently the year 1127 was corrected into 1126. So far as Ex. P-20(a) is concerned it is easy to see that something else had been first written there, but that writing was erased and the entry now appearing was written. Kelu Nair explained that 1127 was put in by mistake and so he subequently corrected the year into 1126. Likewise in Ex. P-20(a) a wrong entry was made but that was erased and the correct posting made. We are inclined to accept this explanation. So far as Ex. P-17 (a) is concerned we notice that the date, according to the English Calendar, was given correctly and that was not changed. If, as was suggested, some receipts which had previously been issued had been altered to suit the purposes of the prosecution in this case, there would have been an equally imperative necessity to alter the English date also which nowever has not been done. Besides, Kelu Nair was examined in the court of the committing Magistrate on 10-7-1952 and these documents were marked on that date. Now, the date 30th Chingam, 1127

which was originally entered in Ex. P-17(a) corresponds to September 1952, that is to say, on the date on which he was examined and this document marked, 30th Chingam, 1127 had not yet arrived. It is therefore impossible that a receipt granted on 30th Chingam, 1127 was altered to suit the purposes of the prosecution in the present case . So far as Ex. P-20(a) is concerned, it must be remarked that there has been no alteration of the amount. Exs. P-18 and P-20 are books issued to Kelu Nair by the office of the Raja so that he might know what moneys he had to collect and from whom. When he makes any collection he would be expected to note the particulars in these books and seeing that these books have no index even a careful man may have initially made a wrong posting. Apart from this if either of these accounts were false that matter could have been very easily demonstrate by summoning the Raja or the staff of his office to produce the account books that they are bound to have. That no such step was taken clearly seems to indicate that there is no real force in the allegation that the receipts were altered. We are inclined to take the view that the defence considered it more expedient, to leave the matter in such shape that an insinuation could be made with a fair degree of plausibility and misgivings engendered in the mind of the Court. It is needless to pursue the matter further. For even if we totally exclude from consideration these four documents , the oral evidence of the witnesses we have already referred to is, in our opinion, ample to make out the case of the prosecution that the deceased was in possession of the "occurrence plot".

The theory of the accused--it extends to this and also to the other aspects of the case that the Raja , his Kariasthan and the other residents of the locality conspired together fabricated false evidence and foisted this case on the accused seems to us to be wholly incredible. It may be that the settlers from Travancore are locally unpopular,

It may also be that the Raja did not desire to have Travancore people for his tenants. But, from this to the theory propounded by the accused that the Raja and his kariasthan and others fabricated the case against them is a far cry indeed. The Raja had probably never set eyes on the second and third accused. He had probably not seen the first accused more than once or twice. That the Raja was a party to fabricating a case against persons who were practically perfect strangers to him can hardly be believed. If he did not want Travancore people for his tenants he had only to pass the word to his kariasthans and no more demises would be granted in their favour.

48 Coming to the defence evidence, The documents relied on by the accused are Exs P-21 .D-9 and P-16. Ex. P-21 is a registered marupattam deed executed by the Moplah named Mammad in favour of the Raja. Ex. D-9 is dated 21-6-51 and is an agreement executed by Anduka (son of Mammad) and two others in favour of the accused in respect of the first of the two items of property comprised in Ex. P-21. Ex. P-16 is a deed of assignment of this first item. It was strongly argued that item (1) in Ex. P-21 is the "occurrence plot" and that therefore the accused had title to it, and that they must also have been in possession of it. Now, when the boundaries given in ex P-21 are examined a little carefully it will be at once perceived that item (1) in Ex. P-21 is not th

"occurrence land" at all. In Exhibit P-21 the nothern boundary of the property is given as the public road. This no doubt applies to the occurrence plot. But the eastern boundary of item (1) in Exhibit P-21 is given as "the crest of the jenm Kumri belonging to Thamburan", that is, the crest of a hill, the jenm right in which belongs to the Raja. The evidence of the Shanbhogue shows that the crest of this hill is a considerable way to the east of the "occurrence plot". Measure six acres. westward from the crest of the hill and along the edge of the road; take your measurements how you will; still you will not be able to have all the "occurrence land". The Karnam gave his evidence on this point with reference to the plan Exhibit P-25 which he prepared. He located the crest of the hill at thenorth eastern corner of the field indicated as 'J' in the plan and he added that 'J' is in possession of P.W.14. The "occurrence plot" is west of the field of P.W.14. The accused could therefore never have got any title to the "occurrence plot". Mammad did not have it and his son Anduka could never have given it to the accused.

An attempt was made to discredit the Shanbogue because on a comparison of Exhibit P-25 with the Field Measurement Book it appeared that he had noted the sub-division number of the field immediately west of the "occurrence plot" wrongly. We do not think that there was anything more in it than an accidental or clerical slip. Agreeing with the learned Sessions Judge, we do not think that the Karnam, even if he had been so minded, would have dared to give false evidence on a matter of this kind, where he could be readily caught out.

There is yet another circumstance which will show that Mammad, the predecessor in title of the accused, had nothing at all to do with the "occurrence plot". In Exhibit P-21 the southern boundary of the first item is given as "Kuzhikkanam of my wife Pattinhettillath Aisa Umma and the punam of Thamburan". This description is copied into Exhibit D-9 also. There is pepper on this land and it has been sub-divided and given a separate number. That number is 274/36. This 274/36 is south of the plot lettered as 'K' in Exhibit P-25 and it is not south of the "occurrence plot". This seems sufficient to dispose of the contention

that the accused derived title to the "occurrence plot" under Exhibit P-21. However this is not all. There is also some reason for supposing that the Exhibit D-9 is an ante-dated document and that it was brought into existence by the accused for the purpose of this case. The learned Sessions Judge remarked,

A 133-34

> "The agreement Exhibit D-9, bearing the date 21-6-1951 and the registered deed, Exhibit P-16, dated 24-4-1952 are in the same handwriting and in the same ink and look suspiciously as if they were written at the same time. The stamp paper on which Exhibit D-9 is written was not bought in the name of any of the parties to that document but in the name of one M. Hanumantha Shanbhogue of Pallikere. It looks very much as if, when taking the assignment under Exhibit P-16, the first accused was creating evidence of prior possession".

We consider that these observations are legitimate.

57 It may be further remarked that though in cities and commercial centres it is not unusual to obtain an agreement of sale before the actual execution of the sale deed the practice is rare in villages particularly when the transaction relates to properties of relatively small value, as in the present case. The consideration for Exhibit P-16 be it remarked, was only Rs.600/-. Moreover it will be recalled that the evidence of Anduka D.W.-4 was that he had put the accused in possession of the land even three years previously. Now, if the first accused had already got possession of the land so far back there was no need whatsoever for him to obtain an agreement of sale. It may also be remarked that if the accused had been put in possession of the property as Anduka says he did they must have paid "nigudi porappadu" and obtained receipts. But, not a single receipt purporting to be for any payment made by the accused was exhibited. The only receipt produced is Exhibit P-22 and that does not show that the payment was made by any of the accused: the person who made the payment vouched for by that receipt is described as Anduka himself.

A 127

52 Mr. Ethiraj argued that the plot covered by Exhibits D-9 and P-16 must be the "occurrence plot" because both the documents refer to a well and "thodu" or channel and no other plot in the neighbourhood has both a "thodu" and a well. Now, we have already given reasons for the view that the land referred to in Exhibit D-9 and Exhibit P-16 could not have been the "occurrence plot". We are inclined to think that this particular description relating to the "thodu" and well was purposely inserted in Exhibit D-9 and Exhibit P-16 in order to enable the accused to lay claim to the property.

53 Defendants 1, 4, 6 and 8 (DW1 & DW2) gave evidence to show that the "occurrence plot" was in the possession of the accused. C.W.1 and P.W.15 also made statements which would appear to support the contention of the accused on this point. This evidence must therefore be examined.

54 D.W.1 is the local Assistant Parish Priest and it was asked as though the suggestion itself were outrageous whether he would have committed perjury. The circumstandes that he is in Holy Orders and sworn to the service of his religion would no doubt make him more reluctant to give false evidence than if he had been untrammelled by his vows and the discipline of his calling. Nevertheless, we are clear in our minds that the evidence of D.W.1 in the case is false and that he has succumbed to the pressures exerted by parochial, communal and religious loyalties. D.W.1 explained,

> "In January 1951 I went to this land of accused 1's to make inquiries for tapioca sticks for planting".

Cross-examined on this point he stated,

> "Tapioca is grown extensively in Rajapuram colony. When I made inquiries I heard that accused 1 had some surplus cuttings in his land. So I went there to make inquiries. People are reluctant to give cuttings. So I thought it better to go and ask rather than send for accused 1."

57

We cannot possibly believe the reason given for the visit.. Tapioca is a plentiful commodity on the west coast and there would have been no need whatsoever for D.W.1 to go to anybody's field merely to get cuttings of tapioca. He had only to drop a hint to one of his numerous parisheners and they would have dumped head loads of these sticks at his door.

55 Now that we are on D.W.1 we may mention that we do not believe his story about his having at 11-30 p.m. on that Monday night witnessed two fires in this field and heard cries and shouts. If he had, he would have gone there, if not immediately at least next morning, and in any case he would have made enquiries. Admittedly he did nothing of the kind. That a Parish Priest took so little interest in a member of his flock, when that flock was something like an island or outpost in or what may be called a "foreign" area - is difficult to believe. Normally Catholic Pastors take their duties very earnestly.

133-34

56 D.W.4 is Anduka. one of the executants of Exhibit D-9, about which reasons exist for thinking that it was brought into existence for purposes of enabling the accused to get at this property. D.W.6 is a settler of Rajapuram colony and it goes without saying where his sympathies lie. And D.W.8 is the mother of the accused.

57 P.W.15 no doubt stated that about a year ago he went to the "Occurrence plot" to [illegible] and that at that time he saw a small hut in it wherein two Christian women were living. He also saw tapioca, turmeric and ginger cultivated on the land. Now, it is perfectly celar that P.W.15 is a friend of the first accused. It appears from the evidence of D.W.2 and Advocate of Hosdrug that on 19-5-1952 the first accused went to his house and P.W.15 accompanied the 1st accused. This apart, it must be borne in mind that P.W.15 is the person to whom the first accused addressed Exhibit P-14. A request of the kind contained in Exhibit P-14 would not have been made to P.W.15 if he had not been close and absolutely trusted friend of the first accused.

C.W.1 is no doubt a perfectly respectable and disinterested person and he deposed,

> "I have seen Accused 1 on the roadside by the side of the land but not actually in the land. .. .. My recollection is that it was being cultivated with tapioca for the last two or three years — before that the entire area was jungle."

But C.W.1 lives in Hosdrug. He has at no time stopped at this spot and inspected the land. He admitted

> "I have no property in the vicinity. I have only passed through the locality by car and have never halted there."

He was unable to remember when exactly the occurrence plot was cleared of jungle. His evidence, therefore, is too vague to be of real assistance to the accused.

We have no doubt whatsoever that the "occurrence plot" was in the possession of the deceased.

Coming to the actual occurrence itself. P.Ws.1, 2, 3, 5 and 8 have narrated in detail what happened and their evidence appears to our minds to be in every material respect true. No doubt P.Ws.1, 2, 3 and 5 are relations of the deceased, but they were in the shed on the night in question and they could very properly not have been there. Besides, P.Ws.1 and 2 bore on their persons painful evidence of their presence at the time the crimes were committed. It was suggested to P.W.8 that he was not there at all and that he was giving false evidence at the instance of the Kariasthan Kelu Nair. But, that suggestion has been denied, and, we do not think that there is any truth in it. P.W.8 has also given a very good explanation for having been present in the locality at that time. He is an agricultural labourer and had been working in the neighbourhood for some months and on the night in question he was sleeping as usual in the varandah of the house of Madhavan Nair across the road.

The circumstances that other witnesses were not called would have required explanation by the prosecution if the locality had been a populous one, but that, it, was not. The prpperty immediately west of the "occurrence plot" belongs to a Syrian Christian. There is no evidence to show that there is any building on it or that anybody was living in it at that time. The house across the road belongs to one Madhavan Nair, the brother-in-law of the deceased. But the evidence of P.W.8 shows that on the night of the occurrence Madhavan Nair was ill and did not come out. One of his eyes was bandaged and he was unable to do any work. There was one other man called Koman Nair living in that house, but on the night of the occurrence he was not there.

61 The defence version is shown to be untrue by various circumstances. We have already quoted the statement of the first accused to the effect that

> "two days before the occurrence during our absence P.W.18 trespassed on the land and installed the deceased and P.W.2 in our hut. We were helpless and wanted to avoid trouble. So, near the old hut we constructed a new hut with materials we had already collected."

If this had really happened we do not think that the accused would have sat down with folded hands. They would certainly have filed a criminal complaint, or otherwise set the law in motion. It is not as though the accused are ignorant persons. It appears from the evidence of D.W.2 an Advocate that in the morning of 19-5-1952 the first accused called at his office in the company of P.W.15. They would have at least then consulted him as to the course of action they should take.

62 As to what happened on the night of the 19-20 May, the case of the accused was that at about midnight P.W.18. Kelu Nair, at the head of a number of Charmas and others, more than fifty strong, entered on the property, dragged them out of their house and pushed them out into the road, from where they went to their permanent residence, two or three furlongs away.

60

Kelu Nair and his band of Charmas burnt down their house. About 7 or 8 o'clock in the morning accused.2 and 3 went to collect their belongings. The deceased and his wife, P.Ws.1, 2 5 and a dozen others rushed at them with knives and sticks and beat them up. Now, if this was what really happened it is inexplicable that the casualties on the side of what we may call the party of the deceased amounted to one killed and two seriously injured while on the side of the accused only two were injured and that too only slightly. No doubt the mother of the accused is also alleged to have been injured, but she had no injuries that the doctor could discover.

63 This is not all. When P.W.20 the Sub Inspector of Police inspected the locality he made some curious discoveries. No articles on the basement of the shed which the accused were occupying showed any signs of having been damaged by fire. He also noticed that in the basement were holes indicating that posts on which the roof of the hut had rested had been pulled out from them. There was the stump of one post standing - the top having been chopped off about 34 inches above ground level. This shows that the articles with which the hut had been constructed were deliberately removed to some other spot and there burnt - clearly the work of persons who were anxious that the properties inside the hut should not suffer damage. It is impossible that Kelu Nair and his men - supposing for the moment that they were the miscreants - would have exhibited such anxious solicitude for the safety of property belonging to the accused. The interference is plain. It was the accused or their men who took these materials apart and burnt them. Why did they do that? Obviously to create evidence in their favour. Unfortunately they did not think far enough and slipped up.

64 Exhibit P-14 is also relevant in this context. It will be recalled that in it the first accused requested his friend P.W.15 to send

> "ten Moplahs from somewhere by telling that Soopi or any other by this evening. This is absolutely necessary".

the request for "these" strong arm men" as clear evidence to our minds that the 1st accused was contemplating aggression that night and it is wholly irreconcilable with their present case.

65 Mr. Ethiraj argued that what ever may have happened we cannot be sure on the evidence that it was the first accused who stabbed the deceased. Exhibit P-9 is the report made by the Talayari at 12 Noon on 20-5-1952. to his Patel and Exhibit P-10 is the report of the Patel to the Police. In neither of these documents is it mentioned, said Mr. Ethiraj, that the first accused stabbed the deceased. Now, in respect of Exhibit P-9 it must be remembered that it was not the report of any eye witness. It was the report made by a person who went to the place accidentally/some time after the close of the whole transaction and who stated little more than what he actually saw on the ground at that time. It does not profess to give any information as to what any particular person said or did. Exhibit P-10 is based on Exhibit P-9. No arguments can, therefore, be built on any omission from Exhibit P-9 and P-10.

66 Mr. Ethiraj next pointed out that the evidence is that the deceased was running northwards when he stumbled and fell on his face after which it was that he was stabbed. But, the inquest report shows that the body lay with its head to the south. He therefore remarked that the witnesses cannot be speaking the truth. Now, whatever it may be possible to say as regards others, it is impossible to deny that P.Ws.1 and 2 were there, because they had injuries on their persons. They had nothing to gain by suggesting that the deceased ran north if as a matter of actual fact he ran south. The apparent discrepancy between the evidence and the entry in the inquest report on which Mr. Ethiraj laid stress may well have been due to the fact that the deceased did not die instantaneously. He might have tried to get up and fallen down in the position in which he was later found. Nothing seems to turn on this circumstance.

67 Mr. Ethiraj next argued that the witnesses for the prosecution had divided the injured persons amongst the accused in such a manner as to place responsibility for the most serious offence on the first

52

accused. We are not impressed by this argument. The evidence makes it clear-and we see no reason to doubt it-that the deceased was the first person to be stabbed. The first accused was the most determined of the lot and the probability also is that he is the man who would have first gone after the deceased. No mistake could possibly have been made at this stage about the identity of the assailant or the deceased. It is not as though there had been a confused melee in which one man did not know what his neighbour was doing. It must also be remembered that P.Ws.1 and 2 were lying down at the spot and that all the time accused 2 and 3 also were in the field. Therefore even if the witnesses for the prosecution had been so minded it wouldhave been practically impossible for them to have shuffled the parts played by the different accused. And one may well doubt whether anybody would have thought of doing any such thing at the time. The argument is only a final effort to raise some shred of doubt in the hope of securing an acquittal on the Capital Charge.

68 Mr. Ethiraj next remarked that the witnesses for the prosecution do not account for the injuries on the persons of accused 2 and 3. To that it is perhaps a sufficient answer to say that they knew best how they came by their injuries. In any case, the injuries are not serious and accused 2 and 3 couldhave arranged to get them inflicted on themselves.

69 Mr. Ethiraj next remarked that the second injury entered in the post mortem certificate was 5 inches deep, that the medical evidence shows that to inflict that injury the weapon used must have had a blade at least 5 inches long and that M.O.9 the knife produced in Court has not a blade of that length. The obvious answer to this argument is that the prosecution does not say that M.O.9 was the weapon actually used by the first accused. He might have very well discarded his weapon where nobody could find it.

70 The alibi plea which the first accused set up has no truth in it. His case in the committing Court was that he spent the night of the 19th-20th May in the house of P.W.15 Keshava Kamath. In the Sessions Court, however, he altered that and stated that he spent the night in the house

not of Keshava Kamath but of his brother's son. He tried to get over the difficulty by suggesting that a mistake had crept into the record made by the Magistrate. But as the learned Sessions Judge remarked it is impossible that any mistake could have occurred. The Magistrate explicitly asked the first accused with reference to the evidence of Keshava Kama.., that he did not go to ~~xxx~~ his house on the 19th or on the 20th and in answ.. to that explicit question the first accused stated that he did spend that night there. We extract the questions and the answer.

Q. P.W.10 (that is Kesava Kamath) says that you did not come to the house of P.W.10 ~~xxx~~ either on 19-5-1952 or on 20-5-1952 and that you never saw him. What do you say regarding this?

A. On 19-5-1952 I went to the house of P.W.10. In the night I remained there itself. His nephew and brother's son were there.

It may be added that neither Manjunath Kamath the brother of Keshava Kesha.. nor his son was examined at the trial. In respect of Manjunath it was said that he was dead. As for his son, the first accused does not know his name since they used to address him merely as Sami.

71 Here too Exhibit P-14 becomes relevant. In that letter the first accused categorically affirmed

"It is impossible for me to come that side today and tommorrow". Moreover in that letter he had asked for a reinforcement of Moplas and when they were due it is hardly likely that he would have left the spot. It is not as though some sudden crisis developed after the first accused had sent off Exhibit P-14. He stated

"On the 19th evening I went in a passing lorry to Hosdrug where I had to collect money for tapioca, etc., sold."

This matter of collecting outstandings could well ~~xxx~~ wait for a day or two.

64

72 As for D.W.5 the catechist of the Catholic Church at Kanhongad who were swore that the first accused went to the Church at 6 A.M. on 20-5-1953 under the impression that there would be a mass, we are clear in our minds that he cannot be believed. The 1st accused told the Sessions Judge: "Early next morning I went to Hosdrug Church and attended mass". Now a mass requires a priest. But the evidence of D.W.5 is that there was no mass because the priest was absent.

73 D.W. 3 deposed that he saw the first accused at 8-30 A.M. near Hosdrug. Dealing with this evidence the learned Sessions Judge observed:

> "It is true that there is the evidence of the Firka Supply Officer. D.W.3. that some time after 8-30 A.M. on 20-5-1952 the first accused stopped and boarded a lorry in which he (D.W.3) was proceeding from Hosdrug. But the scene of offence is only twenty miles from Hosdrug and the road is mostly downhill so that after the occurrance, which was at cock crow, it was by no means impossible for the first accused to get to Hosdrug on a bicycle in a matter of two hours or so".

Besides D.W.8 the mother of the accused admitted "Just after stabbing etc. on Tuesday morning I saw a bus go westwards towards Hosdrug. I was not fully conscious and do not know if the bus stopped or if any one got down from it and came to the land". The first accused might very well have got away by this bus. These comments are on the assumption that D.W.3 is speaking the truth. However D.W.3 is only a clerk in the Taluk Office and we would not put it beyond the capacity of the accused to enlist the assistance of a man of his status. Where they succeeded with D.Ws.1 and 5 they could have succeeded with D.W.3 also.

74 Nor are we inclined to attach any credence to the evidence of D.W.7; he belongs to the same religion and colony as the accused. The alibi evidence is clearly false.

75 One other point raised by Mr. Ethiraj remains to be dealt and it is this.

1

Exhibit P-1 is a statement recorded by the Sub Magistrate of Hosdrug from P.W.1 at 1 A.M. on 21-5-1952. That contains the following passage:

> "They (Accused 1, 2 and their men) set fire to our houses. We went and stood under a tree near by. When it was morning we returned to our place. Then Onnan (the 2nd accused), Kuriyakese (the first accused) and Thommi (the 3rd accused) came and told us that we should not remain there. Onnan stabbed me with a knife. Kuriyakose stabbed by son Kunhiraman (deceased). Thommi stabbed my daughter Vellachi(P.W.2) with a knife."

P.Ws.2 and 3 in their evidence suggested that the arson was after midnight therefore, argued Mr. Ethiraj, the arson on the one hand and the murder and the stabbingson the other were separate transactions and there has been a misjoinder of charges. We are not satisfied that there is any substance in this objection. It must be remembered that Exhibit P-1 was the statement of a person who was in considerable physical distress at the time he made it. The Magistrate, P.W.4, who recorded it deposed;

> "He was unable to speak freely or continuously and was giving his answers bit by bit after pauses.

One need not, therefore, be entirely surprised if when checked with the evidence given in Court it gives the impression of being disjointed or disconnected. The expression "ravileayappol" in Exhibit P-1 does not necessarily mean, as the learned Sessions Judge has explained after day break. If it does mean that we can only assume that some mistake was made by P.W.1 because of the exhausted state in which he was. Moreover it will not be right to assume that the time spoken to by P.Ws.2 and 3 was immediately after midnight. They had no clock or watch to go by - not even the sun. When we have regard to the probabilities of the matter it will be apparent that all the events must have formed a continuous chain. The hut in which the deceased lived is set fire to.

the roof taking fire the inmates rush out. After the roof falls in they go and see if anything could be salvaged. And then the accused intervene and the stabbings and the killing ensue. We do not think that the events constituted two separate transactions. They were only one.

It has been clearly established by the evidence that accused 2 and 3 on the instigation of and in the presence of Accused 1 set fire to the hut in which the deceased and the other inmates were living, that the first accused stabbed the deceased and killed him, that the second accused stabbed P.W.1 and that the third accused stabbed P.W.2. In stabbing P.Ws.1 and 2 accused 2 and 3 clearly intended to kill. The appellants were, therefore, rightly convicted under Sections 436, 302 and 307 I.P.C.

So far as the sentences are concerned, there are no extenuating circumstances whatsoever in favour of the first accused. The capital sentence imposed on him is the only possible one in the circumstances of this case.

We therefore confirm it. So far as the sentences on accused 2 and 3 under Sections 307 and 436 I.P.C. are concerned, they are by no means excessive and they are also confirmed.

Sd./ V.T. Kandaswami,
Deputy Registrar, A.S.

(True Copy)

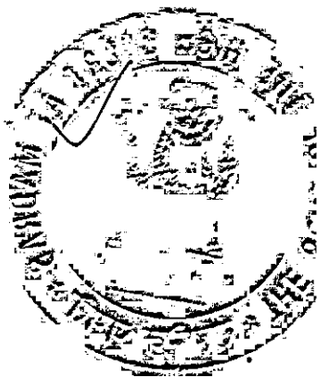
Sub-Assistant Registrar. A.D.

To

1. The Sessions Judge of South Kanara (in duplicate for communication to the prisoner) (with records).
2. The Stationary Sub Magistrate, Kozarapoge.
3. The District Magistrate, South Kanara.
4. The Superintendent, Central Jail, Cannanore.
5. The Public Prosecutor, Madras.
6. The Inspector-General of Police, Madras.
7. The Secretary to the Government of Madras, Home Department, Madras (2 copies with covering letter).
8. Carbon copy to Sri M.C. Sridharan, Advocate to be supplied free as directed by Court.

pd.

68



Dated 16-4-1953.

Judgment
R.T.No.15 of 1953.
Crl.Appeal No.797 of 1952.

Confirming the sentence of death passed on accused 1 in S.C.36/52 on the file of the Court of Session, South Kanara Division and the sentences of 7 years R.I. passed on Accused 1 to Accused 3 in the said S.C. 36/52.

M C 1

SESSIONS CASE No.36 of 1952.

DESCRIPTION OF THE ACCUSED.

Name.	1. P.T. Kuriakose.
	2. Ulahannan.
	3. Thommi alias Thomas.
Father's name.	All are sons of Thomman.
Caste or Race.	Syrian Christians.
Occupation.	Cultivation.
Residence.	All are residing in Panathady village, Kasaragod Taluk, South Kanara District.
A g e.	1. 25 years. 2. 27 years. 3. 23 years.

DATE OF:

Occurrence.	20--5--1952.
Complaint.	do
Apprehension.	23-5-1952.
Release on bail.	------
Commencement of trial.	24--11--1952.
Close of trial.	3--12--1952.
Commitment.	18--8--1952.

EXPLANATION FOR DELAY.

Charge sheet was filed before the Sub Magistrate of Hosdrug on 9--6--1952. As the Sub Magistrate was a witness in the case the Sub Divisional Magistrate of Puttur was addressed for transfer of the case to some other magistrate and under the orders of the Sub Divisional Magistrate it was transferred to the Sub Magistrate, Kasaragod. The Sub Magistrate of Kasaragod took it on file on 26-6-1952 and posted it to 8--7--1952. P.Ws. 1 to 3 were examined on 8--7--1952. P.Ws. 4 and 5 on 9 -7--1952; P.Ws. 6 to 8 on 10-7-52 P.Ws. 9 and 10 on 11--7--1952, P.Ws. 11 to 15, on 16--7--1952. P.W. 16 on 17--7--1952. P.W.7 recalled and examined and P.Ws. 17 to 20 examined on 23--7--1952, P.Ws. 21 and 22 examined on 24-7-52 P.Ws.23 on 25--7--1952 and the case adjourned to 3--8--1952 and

summons

and summons issued to the clerk of the Sub Magistrate Hosdrug and to the President of the K.K.C.C.S. stores. for production of certain registers. P.Ws. 24 and 25 examined on 5--8--1952 and the accused on 12--8--1952. Charges were framed on 14--8--1952 and the accused were committed to the Court of Session on 18--8--1952. The Committal order was received in this court on 22-8-1952 and the case was posted to 6--10--1952 the nearest date available. On 6--10--1952 it was represented that P.W. the most important witness in the case was ill and was inpatient in the Hosdrug Hospital and the doctor certified that he would not be in a fit condition to move for another ten days. The Public Prosecutor applied for adjournment saying that the witness could not be given up and the case was therefore adjourned to 24-11--1952 as no earlier date was available.

Court of Sessions, South Kanara,
Mangalore,
Dated 22nd December 1952.

Sd. P.T.Raman Nayar,
Sessions Judge.

Home Department.

Memo. No. 101326 Cts.I/53-1, dated 18.5.53.

Petition for mercy - Condemned prisoner P.T.Kuriakose - Central Jail, Cannanore - South Kanara S.C. No. 36/52 - C.A.No. 797/52 and R.T. No. 15/53 on file of High Court - Copies of English translation of police diary - Receipt - Acknowledged.

Ref: From the D.S.P., South Kanara, ~~Mangalore~~ No.CT/6324/53, dated 9.5.53.

The receipt of two copies of the English translation of the police diary in the case mentioned above, forwarded with the letter cited, is acknowledged.

To the D.S.P., South Kanara, Mangalore-1.

18.5.53

NOTE:

The draft memo. above is with reference to the D.S.P's. request at X on p.1 c.f. and is for approval.

2. The offence in this case was committed on 20.5.52 and the prisoner was apprehended on 23.5.52. As he is not likely to be executed before 23.5.53, the delay that has occurred in the disposal of this case has to be explained to the Government of India. The charge-sheet was received in the Committal Court on 9.6.1952 and the prisoner was committed to the Sessions on 18.8.52. The reasons for the slight delay in the Committing Court have been sufficiently fully explained in the calendar extract on pp.69-70 c.f. The main delay (more than four months) occurred in the High Court, presumably due to earlier postings. In these circumstan it is submitted that it appears unnecessary in this case to issue a reference to the D.M., South Kanara, drawing his attention to G.O.Ms.No.2623, Home, dated 4.6.41 and calling for the papers referred to in para 2 therein as such a course is likely to cause further delay. If approved, the delay in the case can be explained to the Government of India with the information available in the calendar extract on pp.69-70 c.f. For orders.

3. If no reference to the D.M. is considered

necessary, the petition for mercy may be awaited.

(R.D. 23.5.53)

Issue Note regre. to para. 2 of GO 2265 H of 25.8.52 should in such cases obtain explanation for the delay in the confirmation of the sentence by the High Court. Have we done this in any other case

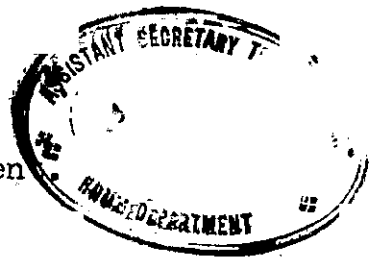
Submitted that there has been no instance during the past 5 or 6 years when the High Court was addressed to explain the delay that has occurred in that Court. Any delay in the High Court is presumed to be due to earlier postings.

PITION FOR MERCY -URGENT

Office of the Superi-
-nt,Cannanore Central Jail

No. R 15/2628 /53.
23.5.53

Dated 23.5.53.



From

Sri.K.R.R.Manon Superientenden

To

The Secretery to Government Home Department Madras.

Sir,

Sub:- Jails -Cannanore Central Jail-. Condamned prisnore
No. 4628 P.T. Kuria Kose -Petition for Mercy-su-
bmitted.

I submit here with a Pettion for mercy in English in duplicate form condemned Prisener No. 4628 P.T. Kuris kose addressed to the Governments of Madras and the President of Indian Republic. He was sentenced to death in S.C.No.36/52 on the file of the Sessions Judge, Sotth Kanara and the Convic ion and sentence was confirmed by the High Court of Judicature at Madras in Rt.No.15/53 and CA 797/52 dated 16-4-53.

The execution of the prisoner has been fixed for 10th June 1953 and I hereby certify that it will not be carrie out until the receipt of the Orders of the Government on the Mercy Petition.

The nominal roll of the prisoners in duplicate is enclosed.

Superintend-ent.

Enc:-

1) Petition in duplicate.
2. Nominal roll in duplicate.

110429

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-18. 19.000—11—6—52.

75

NOMINAL ROLL OF MALE* CONVICT No. Convicted 4626† A.

Name P. T. Kuria Kose S/o Thomman.

Residence (Village, Taluk and District) Panathadi, Kasargod, South Kanara.

Caste Syrian, Present age 25 years, Occupation Cultivation.

Section and Code under which imprisoned Sec. 302 I.P.C. & 436 I.P.C.

Original sentence of order and date Death u/s 302 I.P.C and 7 years R.I. u/s 436 I.P.C on 8.12.52

Adjudicating Court and Calendar number of case Sessions Judge South Kanara in S.C. 36/52

Unexpired term of sentence after deducting remission earned — year (s) — Month (s) — Day (s),

Present state of health and fitness to undertake a journey † T H.

7/B

Result of appeal (if any) Dismissed in RT 15/53 and CA 794/52 d/16-4-53 by the High Court, Madras

Conduct in Jail Good.

Personal and descriptive marks§ 1 Black mole 2" above the R. nipple and 1 d.s. each 1 Black mole 1 cm. above the inner end of left eyebrow 1 Black mole left side of throat 4 each.

Remarks Class – C, Diet – Rice, Caste – A

Strike out and add " Female " when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M. P. and R. M.)

Cannanore Central JAIL,
23-5- 19 53

Superintendent.

To
His Excellency The Governor of Madras and
The President of the Republic of India.

Through
The Superintendent,
Central Jail, Cannanore.

May it please Your Excellency,

That Your Excellency's humble petitioner, P.T.Kuriakose, (Convict No.4628), a condemned prisoner, confined in this prison most respectfully beg to state as follows:-

That he was convicted under section 302 I.P.C. and sentenced to death penalty and under sections436 and 307 I.P.C. to 7 years R.I. by the learned Sessions Judge of South Kanara on the 8th day of December 1952 and both confirmed by the Honourable High Court of Judicature at Madras on the 16th day of April, 1953.

That he confess before the Almighty God, his Creator, that he has not committed the henious and no less repugnant act. But, he has been convicted - convicted rightly - on the evidence before the court. It is his irrevocable destiny - all - pervading fate.

That he is not intend to recapitulate events and matters relating to this sordid case, and any attempt to do so would be quite futile, in view of the fact, that much of it has not been placed before the learned Sessions Judge, due to infirmity of the advice tendered to him by the learned defence advocate in the Sessions Court.

That, that infirmity has been rightly described by his very able and brilliant advocate Mr.V.L.Ethiraj, in the High Court and the Honourable Judges were not slow to observe that in their joint judgment in page 7, para 2:-

> "Mr.Ethiraj, the learned advocate for the appellants, so fully recognised the futility of contending that - Ex.P.14 was not written& and signed by the 1st accused, (That is Your Excellency's humble petitioner), that he admitted that his clients were not very wise in taking in the trial court the line they did in respect of that document."

That, that letter formed one of the principal evidence against him and has influenced the Honourable Judges to no small extent. It has done incalculable harm to his case. The defence had been formulated and dressed by his legal advisers to coincide that

-----formulatio-

formulation. But unfortunately, more pressing fundamental facts found no advance or guidance. That view has been confirmed in reference to Ex.P.14 by Mr.Ethiraj, quoted by the Honnurable Judges. In laying emphasis on these vital facts he has no desire to aportion blame or to draw adverse inference against his able legal advisers, for tendering him what they conceived to be their well concerted advice. It is, of cause, his inexorable tragic destiny.

That he was the only able principal member in a large family of twenty two souls who had left their homeland Meenachal Taluk in the District of Kottayam, in the State of Travancore, in the year 1948 and purchased farmland and settle down in the Rajapuram Colony, founded by the Travancore Agricultural Farmers in the year 1942. This colony has over 70 houses with a population of over 500 persons, who are Syrian Christians. It is a self-contained colony with a primary school, Church and a Post Office. It has its own Co.pperative Stores and that was conducted by him and he was the leading member in the colony.

That he is a married young man of 26 years and his wife is only 18 years with 2 (two) small children of very tender years. He was the sole support not only of his own wife and children but that of other members of the large family. That his aged parents naturally looked to him to provide them at their riped old age. To them and other members in the family he was the light - the torch - bearer that was ever ready to guide them through the by-ways of life to peace, Security and contentment. That his present unenviable position has cast a gloom over his whole family - a family that has ever been loyal and dutiful citizens of their Government and Country.

That this is the first time that he has ever infringed the laws of his Country.

That he realizes the gravity of his crime and is ever on the tool of repentence for his folly.

That he is a member of the Taluk Congress Committee for a long time and was a member of the Congress Election Board ----

---for

for 1952, to support Sri.M.K.Nambiar of the Kerala Congress for Madras Assembly Elections.

That he was a disciplined sober young man with unnoted passion and always had the commendation of the elders in the colony for his industry, integrity and selfless endeavour in the cause of common good.

That, now, he has come before Your Excellency, with a heavy heart, burdened to the utmost limit with bitter ~~of~~ pangs of sorrows and sincere repentence, to beg grave mercy - mercy that most virtuous shining prerogative of your Excellency, in the assured hope. that his penitent prayer will find an echo full of compassion and humanity.

That it is an obvious fact in human nature to be angry and to be in anger is certainly an impiety. But who is that human being that is not angry?

That his unfortunate innocent wife and small children and the other members of his large family and his distressed aged parents would feel that the heavy burden of sorrow, wail and anquish that has cast a gloom over their lives been lifted and a new lease of life has been granted and ever threatening melancholy fate - even unto their death - been avoided and for all these gracious humanity and infinite mercy - they would always remain grateful and pray for Your Illustrious Excellency, to the end of their days.

That he solemnly promise Your Excellency, to keep always within the law and to ever remain in repentence for his intemperate folly and to become a good citizen, to love and to be submissive to all.

That for this gracious gesture of mercy and compassion and humanity to one who is truly penitent and striving to rise above his immumabable failings and who is ever on the stood of repentence, shall never be forgotten unto his last breath and shall always remain with undiminish gratitude and ardent prayer.

P T Kuriakose

Your Excellency's most Humble Petitinner.

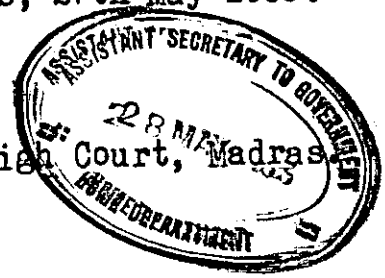
Certified that the contents have been translated in his

vernacular, ~~and~~ explained to him and acknowledged by him to be correct.

Superintendent
Central Jail, Cannanore.
D/ 23-5-53

83

Madras, 27th May 1953.



From

Sri M.C.Sridharan,
Advocate,
29, Law Chambers, High Court, Madras.

To

The Secretary,
Home Department,
Fort St. George, Madras.

1125 85 2875

Referred Trial No.15 of 1953
on the file of the High Court, Madras
(Sessions Case No.36 of 1952 on the file of
the Sessions Court, S.Kanara)

P.T.Kuriakose -- 1st Accused. Appellant.

Sir,

The 1st accused in the above case is filing a mercy petition. The Judgment of the High Court confirming the sentence of death passed on the 1st accused was delivered to me only a week ago and hence the delay in filing the petition. In the meantime it is requested that the execution of the death sentence may be postponed.

Yours faithfully,

M C Sridharan

Advocate for the 1st accused.

Immediate
Pl. take action as mer
28/5/53

Home Department.

The condemned prisoner, P.T. Kuriakose, has

89

60/326(5)/

submitted a petition for mercy. The Supdt., C.J., Cannanore where the prisoner is confined has already certified that the execution of the prisoner will not be carried out until the receipt of the orders of the Govt. on his mercy petition. In the circumstances, no fresh direction to the Supdt. of the Jail to stay the execution of the prisoner seems necessary. Please cf. also rules 805-and 806 of the M.P.& R. Manual, Vol. II.

2. The petition for mercy referred to by the Advocate on p. 83 above may be awaited till 7.6.53.

28/5/53

28/5/53

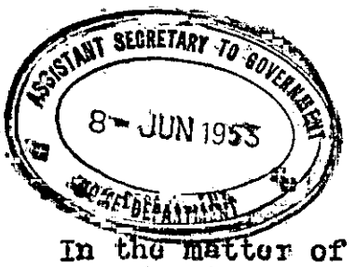
28/5/53

28/5/53

To

The Secretary for the HOME AFFAIRS

Government of Madras, M a d r a s.



Humble petition from ~~Xavier George, and~~ - K.Hari, both residing near Kailas Talkies - Post Kanhangad S.Kanara being the defence witnesses in the Mangalore sessions case 36/52.

Dated:- 5-6-1953.

In the matter of R.T.No:15/52 and C.A 297/52.V.L.Ethiraj,Madras. and Sessions case of the District and Sessions Judge of S.K 36/5

The defence witnesses on the side of P.T.Kuriacose in the South Kanara-Mangalore Sessions court humbly beg to submit as follows:-

Respected Sir,

The advocate engaged for the defence of the accused - did not and examine any one of saying that no witnesses are - necessary . Therefore we we who went to give evidence - stating the actual truth that the accused P.T.Kuriacose is - not guilty and he was not at all present on the spot when the murder took place and he was away 22 miles west at Kanhangad - staying in the house of Kesava Kamath and he has come to know of the occurrance only in the morning of the next day through others Therefore we say that he is not guilty of murder, and we therefore humbly beg to request that the accused P.T.Kuriacose may kindly be pardoned and saved from the penalty of death - showing mercy and granting pardon.

We, the witnesses named and given in the said sessions case list of witnesses on the side of the accused's defence side do - hereby declare that the facts stated above are true to the best of our knowledge and belief..

87

Before the Honourable Minister for Home,
Fort St. George,
Madras.

P.T. Kuriakose 1st accused in Sessions Case No.36 of 52 on the file of the Sessions Court, S. Kanara and the appellant in Referred Trial No.15 of 53 on the file of the High Court of Judicature - Madras, begs leave to present this petition for mercy and for commutation of the sentence of death passed on him for the following among other grounds:-

1. The petitioner is a young Syrian Christian from Travancore State aged 25 years who with his family had settled at "Rajapuram" a colony consisting of about 2000 christian in the village of Panathady in S. Kanara. He along with others have migrated to this place due to poverty to eke out a living by bringing under plough uncultivated forest tract in the locality.

2. The petitioner did not know the deceased Kunhiraman Nair never met him had no dealings with him and bore no enemity or grudge towards him. Unfortunately on the morning of the 20th May 1952 he met with his death due to stab injuries The petitioner is not responsible for his death but the Courts have found him guilty and there is no use at this stage to try and establish his innocance but it is appropriate to detail a few circumstances relating to this unfortunate episode.

3. There is a plot of land measuring about 5 acres belonging in jenmam to the Nileshwar Raja. This formed a part of the 2000 odd acres of forest land belonging to the Raja.

These 5 acres like the adjoining tracts were uncultivated waste land over-grown with jungle. The petitioner was made to understand that this plot was a portion of the land taken on lease by a Mopla called Mammood for 40 years from the Raja. Mammood having died his son Anduka who was examined as D.W.4 in the case assigned his rights along with his mother and other heirs of the said Mammood to the petitioner for Rs.600/- on 24/4/1952. The petitioner was put in possession of it 3 years earlier on an oral lease and he and his brothers who were accused 2 and 3 in the case were cultivating it. Anduka D.W.4 is positive that the land he assigned to the petitioner was the very land on which the murder took place.

4. The prosecution on the other hand alleged that this plot of 5 acres was granted to the deceased Kunhiraman Nair on an oral lease in 1951 that he cleared the wild growth over it in 1952 (Feb - March) and was in possession and enjoyment paying nikuthi purappad to the Raja through his Kariasthan P.W.18. The Raja has not been examined in the case. The Kariasthan P.W.18 was discredited by the trial court and the counter foil receipts which he produced to evidence possession by Kunhiraman Nair has been characterised as false and fabricated to support the case of an oral lease.

5. Whateger was the truth of the matter the petitioner honestly believed that the occurrence land was his while Kunhiraman Nair and his party equally thought that they were the rightful lessees in possession. By means of a plan prepared by the police after the occurrence it has

been demonstrated that the plot in question was the one leased to Kunhiraman Nair the deceased and not to the petitioner. The point to be remembered is that without such a plan it was difficult to locate the plot in the midst of a 2000 acres ~~forest~~ land and mistake in identifying it was quite possible and natural. It was under these circumstances that charges and counter charges of ~~trespass~~ tresspass was levelled against one another by the prosecution and defence.

Rejected by CS - para 74 p 64 ante

6. The case of the petitioner was that he was absent at Kanhangad 20 miles away at the time the murder is alleged to have taken place. He sought to prove this by respectable witnesses but unfortunately these witnesses have been discredited mainly on the ground that they were christians who were out to help their co-religionists. The petitioner/brother the 2nd accused accepts responsibility for causing knife injuries on the prosecution party in the course of a sudden quarrel and fight. No disinterested neighbours came forward to give evidence for the prosecution. All the alleged eye witnesses are close relatives of the deceased. Those witnesses simply divided the injured person among the accused in such a manner as to place responsibility for the serious injuries on the petitioner who was considered as the most important among the three brothers. There was not scratch or injury on the petitioner. In the earliest report made by P.W.10 the Talalayari Ex.P-9 and in the village munsiff's report Ex.P-10 there is no mention of the petitioner having caused the death of the deceased. The knife by which the injuries were alleged to have been caused could not

Cf. para 9 p 16-17 ante

Contd. Cf. para 65 p 61 ante

90

have caused the ~~death~~ the injuries and no blood stains were discovered on it.

7. In view of these circumstances the complicity of the petitioner in the murder has not been established. Even granting that he has been responsible for the death of the deceased Kunhiraman Nair the circumstances disclosed in the case proved without doubt that the killing was not ~~premeditated~~ or deliberate but was the result of a quarrel and fight arising out of a bonafide dispute over property.

8. The petitioners therefore prays for mercy and for the commutation of the sentence of death to the lesser sentence contemplated by law.

Madras,)
6-6-1953)

K. C. Sridharan

Counsel for petitioner.

92

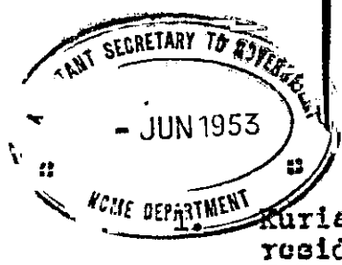
Before the Honourable Minister
for Law, Fort St. George,
M a d r a s.

Petition for Mercy.

Mr. M.C. Sridharan,
Counsel for petitioner.

93

To



THE SECRETARY TO THE HOME DEPARTMENT,
GOVERNMENT OF MADRAS,
MADRAS.

1. Kuriakose son of Vattaparamben Thomman residing at Panathadi village, Kasaragod Taluk, South Kanara.)Joint-petitioners
2. Joseph son of Kizakke Chirakunnil of Panathadi village, Kasaragod Taluk)

Dated:- 5-6-1953

In the matter of Mangalore Sessions case S.K.36/52 and R.T 15/52 and C.A 297/52 High Court Madras. Against P.T.Kuriacose and others sentenced to death-

---

Respected Sir,

We say that we were the defence witnesses in the Mangalore session case no. 36/52 .

We say that we have been summoned to give evidence for the accused Kuriacose and others from the defence side and the defence ~~counsel~~ Advocate Sri.K.M.K.Nair of Tellicherry who was engaged by the accused Kuriakose to defend him and escape from the death penalty did not allow us to be examined -thereby ~~xx~~ - no chance was given to the accused even to try with evidence proving clearly that the accused Kuriakose was not present on the spot to commit murder and he was away 22 miles far west to Kanhangad and as such there is no probability of his committing the alleged murder.

We say that the accused P.T.Kuriacose is not guilty of murder. Therefore the death penalty may be cancelled showing him mercy and granting him pardon in the interest of justice. All this is true.

1. Kuriakose

2 Joseph

We the witnesses mentioned above do hereby declare that the facts mentioned above are true to the best of our knowledge and belief.

1. Kuriakose

2. Joseph

95

No.D.2858/53-Judicial.
Government of India,
MINISTRY OF HOME AFFAIRS.

From

Shri Gulzar Singh,
Assistant Secretary to the Government of India,

The Secretary to the Government of Madras,
Home Department,
MADRAS.

NEW DELHI-2, the 9th June, 1953..

193066
11/6

Sir,

I am directed to forward herewith for necessary action under the rules a direct petition for mercy received on behalf of condemned prisoner P. T. Kuriacose.

The petitioner may be informed of the action taken.

Yours faithfully,

Gulzar Singh

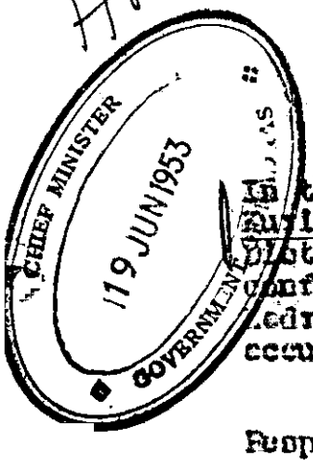
(Gulzar Singh)
ASSISTANT SECRETARY TO THE GOVERNMENT OF INDIA.

99

To

Sri.Rajagopalachari
Prime Minister to the Government of Madras
Madras.

Home



Humble address petition from the village of Honnur Sub Taluk, South-Kanara District Post Kundapur S.K for favour of kind consideration and mercy. D/- 11-5-53

In the matter of sentencing to death of the First accused - Kuriyeose in the sessions case no 36/52 on the file of the District and Sessions Judge, South Kanara-Mangalore, for having confirmed the decision of the Lower Court by the High Court Madras rejecting the plea and statements given by the said - accused stating the that the accused is not guilty.

Respected Sir,

We, the undersigned residents of Hoodrug Sub Taluk residing in several villages therein beg to request that the said Kuriyeose may kindly be pardoned granting him mercy as the Madras High Court also refused to and rejected his appeal and further beg to save his life, from the gallows of death and for which act of kindness and mercy we shall remain ever loyal and grateful; on the strength of the reasons given below:-

129252
22/6

1 In fact the said accused was not present on the spot and he was staystaying at a distance of 22 miles at Kalhang therefore it is not proper to say that he committed the murder. This main fact can be enquired into once again and we are prepared to prove the case giving necessary evidence.

4 The accused could not get a chance of going about to collect and give evidence properly as they have been kept under lockup-having rejected the bail applications also from - the very beginning and start of the case. Besides there were no relations to help him by conducting the case properly and - even the witnesses required to be examined for the sake of - evidence to prove the innocence of the first accused were not - all of them examined as the v kil objected to the same, therefore the truth and the vital fact could not be proved as no chance was allowed.

3

2 The said P.T.Kuriyeose is a youngman aged only 2 helping the poor and needy and till now has not entangled in any cases till now and taking these as main causes mercy may - kindly be given pardoning him and save his life and the sentence of death. We say all this is true. The contents of this - petition have been translated into Malayalam into a language - known to all of us and admitted by us to be true and correct and to the best of our knowledge and belief.

Above signed petitions and copies submitted to:-
1.Sri.Babu Rajendra Prasad, President Indian Union, New Delhi.
2.Sri.P.T.Checko, Member of Parliament, New Delhi for favour of - representation. 3. The Secretary, Home Department, Govt. of Madras
4.Sri.Prakash, Governor of Madras. 5.Sri C.Rajagopalachari and
6.Pandit Jawaharlal Nehru, Prime Ministers. 7. Sri Kolath Narayanan Nambiar M.L.A.Kanhangad 8. The secretaries of the Press -

Kuriakose Vattaparampil Panalkady.

Thomas Stephen Vattaparampil Panalkady (Thomas Stephen)

Chacko Ulahannan Ozhungalil Panalkady.

Ambadi Kungambuc Kadapuram Panalkady

Ambadi Manikam Panalkady.

Ambadi Kannan Panalkady

P. Mohamed Panalhady

P. M. Ahmed Kutty Haji Panalhady

Andaraman Abdas Panalhady

K. M. Keshavan Nambiyar

K. A. Joseph Panalhady &

Mahammad Moidin Panalhady

Mahaman Mathai Arilattil Panalhady

Amina Kunjaamaalu Bellikoth

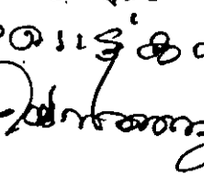
Kadiya Abdulla. Kallatt

Ambree son of Aamungi Panalkady

Aaisumma Abdul Kadir Panalkady

Kadissa Kunjaamma Panalkady.

Kariechi daughter of Appa Panalkady.



ചന്ദനത്തിനെന്തുകയ കൺതേ

ചന്ദനത്തിനെന്തുകയ കൽപ്പുണ്

ചന്ദനത്തിനെന്തുകയ മറന്നിട്ടില്ലേ

ചന്ദനത്തിനെന്തുകയ ചിരിച്ചുകണ്ണുണ്

ചന്ദനത്തിനെന്തുകയ വിറവിറ

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കയ്യുയർത്തിനെൽ

ചന്ദനത്തിനൊടു

കയ്യുചന്ദൻചെറുവൽ

ചന്ദനത്തിനൊടു

കയ്യുയർത്തിനെൽ

ചന്ദനത്തിനൊടുകയ ചിരിക്കും ചിനെൽ

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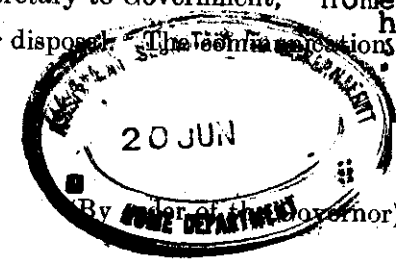
Endt. X.N. Dis. No. 2304
2305 / 53

Governor's Secretariat,
Raj Bhavan,
Guindy, Madras 22
Dated: June 18, 1953

2 petitions

Transferred to the Secretary to Government, Home Department, Madras 9, for disposal. The communications have not been acknowledged.



(By order of the Governor)

129275

for SECRETARY TO THE GOVERNOR.

2nd
18/6

p131 same as p88 and

131

To

Sri. Prakash
Governor of Madras.

Humble and mass petition from the villagers of Hosurg Sub Taluk, South Kanara District Post Kanhangad S.K for favour of kind - consideration and mercy. D/- 11-5-53

In the matter of sentencing to death of the First accused - Kuriyacose in the sessions case no 36/52 on the file of the District and Sessions Judge, South Kanara-Mangalore, for having confirmed the decision of the Lower Court by the High Court - Madras rejecting the plea and statements given by the said - accused stating the that the accused is not guilty.

Respected Sir,

We, the undersigned residents of Hosdrug Sub Taluk residing in several villages therein beg to request that the said Kuriacose may kindly be pardoned granting him mercy as the the Madras High Court also refused to and rejected his appeal and further beg to save his life, from the gallows of death and for which act of kindness and mercy we shall remain ever loyal and grateful; on the strength of the reasons given below:-

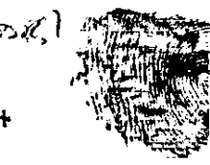
In fact the said accused was not present on the - spot and he was ever staying at adistance of 22 miles at Kanhang therefore it is not proper to say that he committed the murder. This main fact can be enquired into once again and we are prepared to prove the case giving necessary evidence.

The accused could not get a chance of going about to collect and give evidence properly as they have been kept under lockup-having rejected the bail applications also from - the very beginning and start of the case. Besides there were no relations to help him by conducting the case properly and - even the witnesses required to be examined for the sake of - evidence to prove the innocence of the first accused were not - all of them examined as the vakil objected to the same, therefore the truth and the acutal fact could not be proved as no chance was allowed.

The said P.T.Kuriacose is a youngman aged only 25 helping the poor and needy and till now has not entangled in - any cases till now and taking these as main causes mercy may - kindly be given pardoning him and save his life and the sentence of death. To say all this is true. The contents of this petition have been translated into Malayalam into a language - known to all of us and admitted by us to be true and correct as to the best of our knowledge and belief.

Mass signed petitions and copies submitted to:-
1.Sri.Babu Rajendra Prasad, President Indian Union, New Delhi. 2.Sri.P.T.Chacko, Member of Parliament, New Delhi for favour of - representation. 3. The Secretary, Home Department, Govt. of Madras 4.Sri.Prakash, Governor of Madras. 5.Sri C.Rajagopalachari and 6.Pandit Jawaharlal Nehru, Prime Ministers. 7. Sri Kolath Narayanan Nambiar M.L.A.Kanhangad 8. The secretaries of the Praja - Socialist and 9 Communist Party in India and Kasaragod Taluk. 10. The president, All India Congress.

Kerala — Panchayat Office



Champakara Ealy Kuriyam Paarathadi

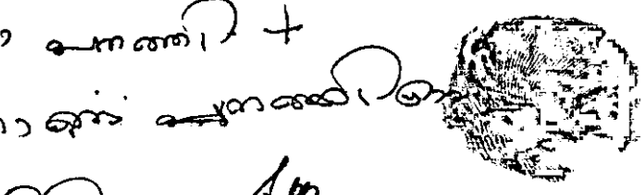
Nikiliyar Maathai Thaarakathanaalil Paarathadil +

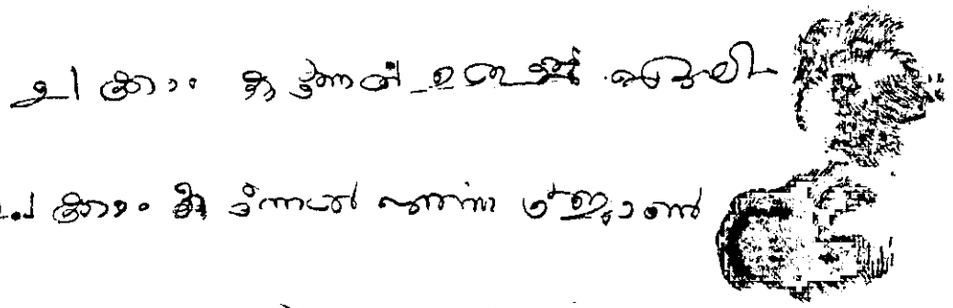
V. M. Ramola Rao.
Driver

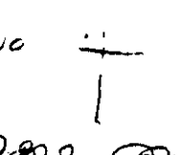
S/o. Madhuga
Hosdurg.
Post. Kanhangad.

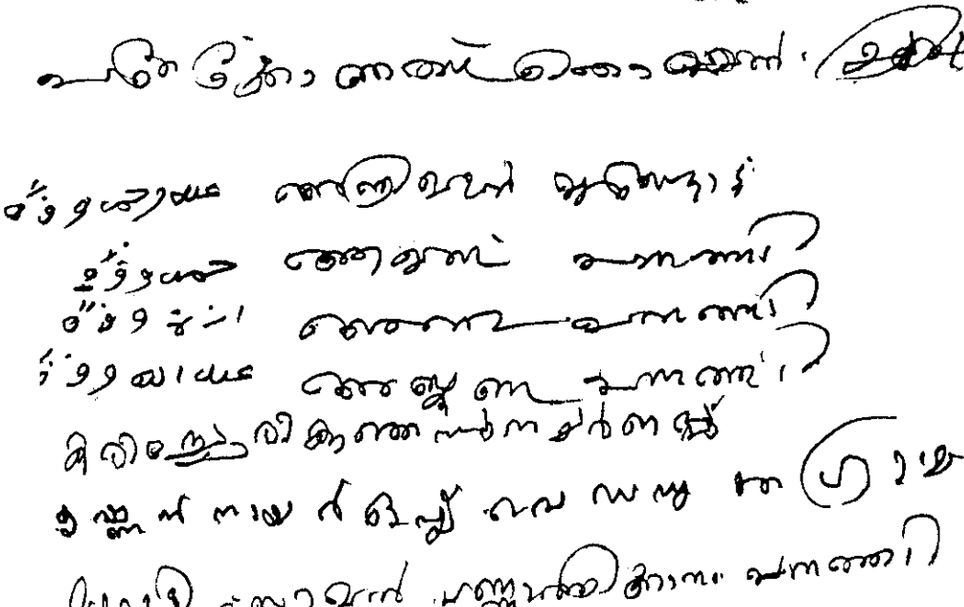
പലിയപറമ്പിൽ മത്തായി

Paliyaparambil Mathai Maryam









Copy, 155
Chief Minister of Madras

To

The President,
Union of India, D E L H I.

130673
23/6/53

Humble memorial of the resident of Hoddrug Sub-Talukof SouthKanara District in Madras Presidency.

Dated 16-5-1953.

The memorialists humbly submit as follows:-

One P.T.Kuriakose son of Thomman Pullenmakal was charged along with his two brothers by the Police for an offence of murder at Panathedi of this sub-Taluk and was convicted by the Court of sessions of Mangalore SouthKanara District of Madras Presidency in sessions case No.36/52. The said P.T.Kuriakose was sentenced to death in the case and the two brothers were sentenced to 7 years R.I. An appeal wasprefered to the Madras High Court where it was rejected. Permission to appeal to the supreme court was refused. And hence this petition for mercy.

4 The said Kuriakose is a young man of 26 years of age with some education. He wasin remand all throughtout the bail application having been rejected. As he was not free he could not present all good evidence in his favour before the court. He had no influencial members of this family to help him. A feeble attempt at defence ended in failure. X Though this plea will not of any use at this stage, the fact remains that he was not at the scene of offence at the time of the offence and that he was innocent in the matter. he having been at Hosdrug 22 miles away from the scene of offence. The prosecution evidence was interested and inimical to the deceased.

2 The said P.T.Kuriakose is an honest god fearing man He is a young man with bright future before him. He has got a large family including his oldparents exceeding 60 yrs. of age. These persons depend upon this accused for bread a and they wil have to starve if the sentence is executed

It would be hard and cruel to put the accused's aged

parents and the wife and children to pangs of grief and sufferings if the sentenced is executed. It would be, loss to the country andpublic if his good services were put an end to, by executing the sentence.

It is therefore humbly prayed that your Excellency may be pleased to take into consideration the extremely sad plight of the accused, his old parents, andhis dependents. And also the disappointments of the Memorialists at the failure of justice and to grant pardon to the above said Kuriakose the accused.

For which act of mercy and justice the Memorialists will ever be grateful.

Copy submitted to the Governor of Madras, MADRAS.

Copy submitted to the Secretary, Home Department, Government of Madras, Madras.

Thommen Ezharath Panalkady.

Abdul Kadir Panalkady.

Abdul Kadir son of Abdulla. Panalhady

Chitta wife of Kallalan. Panalhady

T. Narayanan. Nair. Kanhangad.

Joseph Ozhungalil. Panalhady

Mariam wife of Joseph Ozhungalil Panalhady

ചന്ദനക്കുറി, മംഗലച്ചടങ്ങിന് ഉപയോഗിച്ച് 163
Mary wife of Kudupu Vettiaanibal. Panalhady

തുടർന്ന് വെട്ടിയാനിക്കൽ ചന്ദനക്കുടി
തുടങ്ങിയ കേരളീയ
വിഭാഗത്തിന്റെ വെള്ളൂർ ഒച്ച
വിഭാഗത്തിനും. വേളൂർ ഒച്ച.
അതു പോലെ പൈനൂർ -
T. J. ദാനിയേൽ. പൈനൂർക്കുടി
അതുപോലെ കാഞ്ഞിരമിറ്റക്കാരുടെയും വള്ളൂർ
Kungabdulla Vellur.

അടുത്ത വാർത്തകുടിയിൽ പേരുള്ള
കോഴഞ്ചേരിക്കുടിയിൽ പേരുള്ള
കുടിപേരുകൊണ്ടുള്ള പേരുള്ള Alyamma
മറിയം പിന്നെയുമുണ്ടായിരുന്ന പേരുള്ള Mariam
അബ്ദുൽ കാദിറിന്റെ ഭാര്യയുടെ പേരുള്ള
Abdul Kadir Velloor.

പനിയിൽ നിന്നും പൈനൂർ പുതിയ
കുടുംബത്തിൽ പേരുള്ള. അത്
വാഴത്തുകുടിയിൽ പോലെ ഇല്ലാതിരുന്ന പേരുള്ള
V. Kanaran Nair Velloor. അടുത്തവീട്ടിൽ
Mariam wife of Kallai Kalapurakal Velloor.
Kalapurakal. Velloor
വാഴത്തുകുടിയിൽ അന്നും പേരുള്ള.
Mariam wife of Kallai Velloor
Aley varmakunjkil Velloor.

Mariam Varnakuzhil Velloor.

Aley Varnakuzhil Velloor

Moidinkutty Velloor.

Krishnan Nair Baril Velloor

Anna Mulayamickal Velloor

Mariam Wife of Illiahamman Velloor.

Mariam wife of Kalhar Mulayamickal Velloor.

Iruonge Mulayamickal. Velloor

Abraham Pulykunnil Velloor.

Mariam Pulykunnil Velloor.

Joseph Eeettickal Velloor.

Anandan Aladakam Kallahi

Theomma Parappanatt Vellur.
Chummar Parappanatt Vellur
Alley Parappanatt. Vellur.
Annamma Parappanatt Vellur
Kuriakose Bhubail Pandikady -
[illegible]
Alami Kuliarode. Vellur
Marottikuzhil Chacko. Vellur.
Kurian Marottikuzhil Vellur
Mariam Marottikuzhil Vellur.
Raman Aladatham Vellur
Ambungi Nair Madikal.
[illegible]
Anna Marottikuzhil Vellur
Abraham Marottikuzhil Vellur.
Kuriakose Marottikuzhil Vellur.
Joseph Marottikuzhil Vellur.
Alley Marottikuzhil Vellur.
[illegible]
[illegible]

Karaman Airolt. Kodiam Village

വടക്കേതിൽ ലാസർ വെല്ലൂർ
വടക്കേതിൽ വർഗ്ഗീസ് വെല്ലൂർ
വടക്കേതിൽ തോമ വെല്ലൂർ
വടക്കേതിൽ തോമസ് വെല്ലൂർ
വടക്കേതിൽ ആനന്ദ വെല്ലൂർ

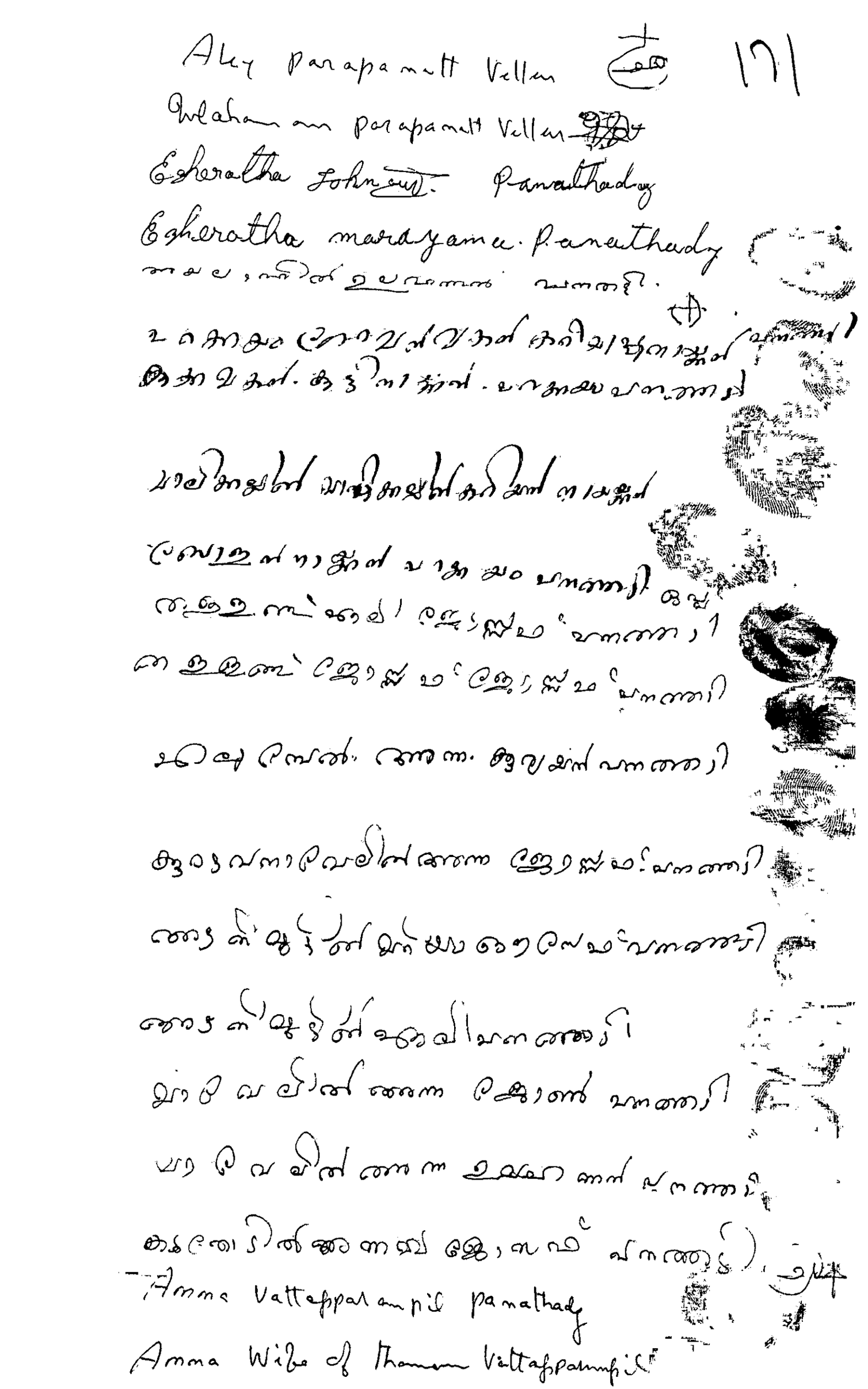
Aroona Therakamkerattil Vellore
Daniel Eraramparadan Velloor
Chacko Thaanarachalil Velloor.
Malhai Njattamanalath Velloor.
Andaraman Boikaanam Muliar
Baduvan kunge Pallibara Panayal.
Ibrahim Boikaanam Muliar.
Abdulkunge Boikanam Muliar.
Adeppallil Luka Vellur
Aroona Adeppallil Vellur
ഒറവങ്കര തോമസ് വെല്ലൂർ
ഒറവങ്കര ചാണ്ടി വെല്ലൂർ
ഒറവങ്കര മത്തായി വെല്ലൂർ
ഒറവങ്കര ചാണ്ടി വെല്ലൂർ
Mary Karuvillakal Vellur
ഓലക്കുടിയിൽ വലിയ വെല്ലൂർ
ഓലക്കുടിയിൽ കുഞ്ഞൻ വെല്ലൂർ
തിനയ്ക്കൽ തോമ വെല്ലൂർ
തിനയ്ക്കൽ കുഞ്ഞിപ്പിള്ള വെല്ലൂർ

Aley Parapamutt Vellan

Pulahan an Parapamutt Vellan

Eheratha Johnny. Panathady

Eheratha mardyanu. Panathady



193

134154

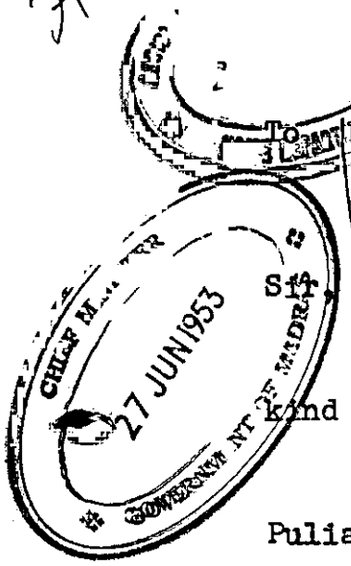
Home

From

Chinnamma Daughter of Ouseph Pothen,
Kadalical House, Edamaruku Kara,
Karimannoor Pakuthy,
KARIMANNOOR, T.C.State.

To

The Chief Minister,
Madras State,
MADRAS.



Sir,

I beg to submit the following grievances to your kind consideration and redress.

1. I am the unfortunate wife of one Kuriakose, Pulianamical House, 1st accused in P.E.36 of 1952 Kazarcode Sessions Court, on 8-12-52 and the appeal preferred in the High Court of Madras, Appeal No.797 of 1952.

2. He is the first accused and has been convicted with the death punishment.

3. There is evidence to show that he was not present at the place of occurrence on that date when the murder took place at Panamthadi Gramm in a scuffle between some people permanently put up there and some trespassers.

It was one of the Trespassers that was killed in the struggle. Yet by the strong influence of the Neeleswaram Thampran who is a very big Genmy and influencial person and who had strong spite against the Christians and especially my husband's family, the death punishment was given to my husband, and others convicted for seven years.

The decision is against truth and fact. We are very poor and we will be helpless if by chance he is hanged. I am only 19 years of age, my husband being

26 years and we have 2 children 2½ years of age and the second 10 months old.

If my husband is hanged we will be left orphans and most helpless, and we may also by our helpless condition driven to death.

I therefore request your kindness, to exempt him from death punishment by the special powers you have and save me and my children from the disastrous situation into which we will be driven, for which act of kindness we will pray for ever.

Thanking you,

Yours faithfully,

Edamaruku,
24-6-1953.

+
CHINNAMMA.

PETITION FOR MERCY URGENT.

No.R.15/3606/53. Office of the Superintendent, Central Jail, Cannanore dated 22-7-1953.

From

Sri. K.P.R.Menon, Superintendent.

To

The Secretary to Government,
Home Department, Madras.

Sir,

Sub:- Central Jail, Cannanore- Condemned Prisoner No.4628 P.T.Kuriakose- Second petition for mercy- Submitted.

Ref:- This office R.15/2428/53 dated 23-5-53 and R.15/4628/53 dated 7-7-53 returned with Government endt. No.101326 Cts.1/53-4 dated 10-7-53.

.....

In continuation of this office letter R.15/2428/53 dated 23-5-53 I submit herewith a second petition for mercy in english in duplicate from condemned prisioner No.4628 P.T.Kuriakose addressed to the Gover of Madras and the President of Indian Republic.

Superintendent.

SECRETARY TO GOVERNMENT
24 JUL
HOME DEPARTMENT

152862

Cannanore Central Jail
22nd July 1953.

To:-
His Excellency the Governor of Madras
and
The President of the Republic of India

Thro:- The Superintendent
Central Jail - Cannanore.

May it please Your Excellency,

While praying for your benign Excellency's pardon for taking the liberty for submitting this second petition for Mercy, he the humble petitioner condemned prisoner No. 4628 - P. J. Kuriakose, begs leave to state, at the outset, that he could not narrate the circumstances of his case in the petition for mercy submitted earlier, under a mistaken notion that they might not be of much consequence to Govt because it was only a petition for mercy and that the petition should be confine to a prayer to Government for escaping the gallo However, he is now impelled by a conviction that whatever be the outcome, he should appraise the Government of the facts of the case in a concise manner which will give him satisfaction and ease the sympathy of the Govt.

He came to the Rajapuram Colony in Pattan village of Kazaragode Taluk in South Kanara in 1948 at the instance of Rev. Father Mathew Chullembel who promis an employment in a Cooperative stores in the Colony which was founded by the Travancore Syrian Christian Settle He was later on joined by his elder brother Ulahannan - accused 2 in the case and his younger brother Thomm alias Thomas, accused 3 in the case. He and his elde brother are married. The former having come down - after selling the family house in Travancore with the intention of settling down in some place after getting some lands on lease for cultivation, and the petitione had in the meanwhile succeeded securing 6 acres of land which one Aduka (P.W. 4 in the case) was - enjoying till then on Mariyattam from the Raja of Nileswar, the 'Jemmi'. This is the occurrence land in the case, known as Chamalakkad and situated about 1/2 mile from his original residence. There installed his brother and his family, in a hut constructed in the land after clearing the jungle and putting up a fence around this land. He had agreed to pay Rs. 50/- per annum to the said Aduka besides - Varam' to the 'Jemmi', the Raja of Nileswar.

He was-

He was helped in this settling down by one Keshava Kamath, (P.W. 15), who was the manager of South Kanara Cooperative Whole Sale Stores, from whose Stores he was drawing the rations for the Cooperative Stores of which he was the Salesman.

Previously, there began to grow a lot of disaffection for the Travancore Christian Settlers among the local people, because they were - cultivating Tapioca indiscriminately and after about three years the soil loses all it's fertility After 3 years the Travancorians do not cultivate the same land and when the local people try to raise paddy or "Punam" they do not grow well in these lands. Secondly, there were feeling that the Travancore Christians were killing animals (Cattle) and eating them which were sacred to the local population. So with the connivance with the "Jenmi" their Agents (Karyastans) slowly began to evict them and a good number of settlers were prey to this scheming. The petitioner however had a hold on the land and had sufficient - records for having obtained the right of possession from D.W. 4 - Adulka. P.W. 18. Kelu Nair, the Raja's local Karyastan enquired about the petitioner several times and demanded of his brother who was - residing in the 'Chamakkad' hut to vacate the land. The petitioner's brother replied that the matter could be settled later on, when the - petitioner who had gone to Travancore to fetch ginger and Saffron seeds, returned. On they returned The petitioner approached Kelu Nair but he was defiant and therefore he approached the Raja and explained everything in detail. Finally on - condition that he paid Rs 30/- per acre as 'Varam' to the Raja, he was allowed to continue to - cultivate it. But the Karyastan, Kelu Nair - became angry because that he had succeeded on a direct approach to the Raja. So, where most of the other settlers failed, the petitioner succeeded

About this time in 1951, the said Adulka (D.W. 4), desired to sell the possession - right of Chamakad and the petitioner desired to buy it. To this end he entered into an agreement with D.W. 4. on immediate cash payment of Rs 200/- and the balance amount of Rs 400/- being payable within a year. - When it was decided the transfer (Sale) deed to be executed, on a certain day the said to the - Sub-Registrar's office. As Stamp papers were not available and as it was late when they reached the Registration Office to register the agreement the document writer lent them the "Stamp Paper", which evidently was purchased originally by some other person. It is this matter was questioned by prosecution and the name of purchaser on the Stamp paper as not a party to this dispute.

While he was cultivating the land in April 1952, he managed to pay the balance of Rs 400/- as per the term of agreement to D.W. 4 Adulka executed the Sale-deed in petitioner's

savoir. This was written by the very same document writer refferred to in the last para. It is because of this same handwriting that the prosecution has questioned that both the documents were written more or less sametime. P.w.19. the village accountant (Shanbogue) had measured this plot and had even drawn a plan thereof. When he intimated this transaction to Rajah in person he did not care to go into details but simply observed that his (the Rajah) affairs are looked after by his agents. He went to the Rajah once again with one Kunhi Raman Nambiar P.w.18 in this case. The Rajah then replied that he was going to Camp at Pavathady Madam and that he would enquire into the matter after sometime from his agents. After a week when the Rajah Camped in Pavithady Madham - he went to see him. After waiting till 9 p.m. that day - the Rajah replied that he had no mind to give him the land Chanka and that was what he had to say and the dog should go away minding his business or I will bliss him. So he came away. He represented his case to P.w.11, (Village Munsiff), Kunhiraman Nambiyar P.w.19. (Village Shanbogue) Madhava Bhat P.w. V.K. Nambiyar (Advocate), C.w.1. M.K. Nambiyar and P.w.15. Keshava Kamath and Advocate K. Kunaran Nair and showed them his documents. They advised him not to enter into unnecessary litigation with the Rajah but to go and reside in the house, that the Rajah could not evict him and in the meanwhile some mutual agreement could be brought about.

Ever since Kelu Nair threatned his brother and his family in your petitioner's absence they had moved from Chankad hut and were staying with him. Occasionally children used to go and see that cattle do not destroy the crops. On 17-5-51, children came and said that the hut has been occupied and on his going there found one Kunhiraman Nair and discovered his father Ambu Nair, P.w.1. and their P.w.3. Raman Nambiyar - the wife of the deceased Kunhi Raman and Kunhi Raman Nair P.w.3. - Parvathi were clearing the house. When he questioned why they had moved to his house they replied that according to (Kelu Nair) P.w.18 with they had occupied the place and when he demanded them to vacate the place they replied they would do so after asking Kelu Nair. On his representation to P.w.19 Madhava Bhat, the Shanbogue to come along with him and reprimand deceased Kunhi Raman and P.w.1., Ambu Nair his father, saying that they had no business to occupy a place where they had no right whatsoever. P.w.19 then advised him to occupy the house and then - he said the others would vacate of their own accord.

Next day, on the 19th he came to the Chankad plot with about 8 to 10 workers and his brothers. Some workers were engaged in clearing the tapioca cultivation of weeds - and the others employed for completing the partially done thatched hut in part of the original hut which he had constructed in the -

the beginning now occupied by the said Kunhi Raman etc. Soon they completed the new hut where the workers were given food cooked in the same hut and he installed his mother brothers, (accused 2 and 3), brother's (accused 2) wife and their children. He wrote to P.w.15 Keshava Kamath, informing him of what he did and requesting him to send ten (10) Mopplahs contract coolies for levelling cultivated plots and Rs.50/- to pay wages to the coolies.

He advised the deceased - Kunhu Raman Nair and the other occupants of the hut to vacate the hut and if Kelu Nair had promised them anything for entering the plot and occupying it he was prepared to pay them the same amount so that they might vacate the house. Meanwhile P.w.1, Ambu Nair came there and he said that he had sent words to Kelu Nair at Panathady and that he was expected and then they would vacate. Soon - after the deceased Kunhiraman left the place saying, he was going to Panathady. At about 10. a.m. Somebody came and told petitioner that Kelu Nair had gone in a lorry towards the - side of Kanhangad. Kunhiraman the deceased not come yet. It is after this that the letter he had written was sent to P.w.15. Keshava - Kamath. This letter is given great importance by the prosecution. In fact, his intention was to ascertain through P.w.15, the activities of P.w.18 Kelu Nair whether he was going to - complain and seek the help of the police and what all the mischief he was trying to - perpetuate against him. At the same time, as he was hard pressed for money - he wanted cash Rs 50/- and nice to pay the mopplah - coolies. That it is a fact that he wrote "fight for justice", which cannot be taken to mean physical fight. He could not leave the place then as he had lot of work in the fields and therefore he wrote that he could not go to P.w.15 the next 2 days. Again he had said "everything would happen according to God's wish and they would meet soon - if destined". He had been anticipating - mischief and aggression from the rich and all powerful Kelu Nair at any moment and pray if his situation then could be guessed nothing insinuating could be attributed to any portion of that letter written in a - confused state of mind.

He waited till 6 p.m. for reply to the above - said letter but in vain. The labourers were demanding their wages [redacted] deceased Kunhiraman had entrust-

from Pantlady. So we decided to go to - Kanhangad to meet P.w.15, Keshava Kamath Before going he told P.w.1 Ambu Nair, that it was better that they vacated the hut, so that there need not be any misunderstanding - between them and they should always - live as neighbours in a friendly way. But - Ambu Nair again said, that he would do so after the arrival of P.w.18. Kelu Nair

He then proceeded to Rajapuram Colony with the labourers and got from the Shop of one Joseph provisions for the - labourers and sent them away. He saw a lorry driven by one George with timber in it on its way from Pantlady to Kanhangad. He got into it and proceeded to Kanhangad. It was then 7-30 p.m or so. The lorry reached Kanhangad at about 10-30 p.m. As he was in slumber the driver woke him up when the lorry had arrived before P.w.15's house. P.w.15, Keshava Kamath said that he had not received the letter the petitioner sent earlier in the day and that he had not seen Kelu Nair and promised to send the workers (Mapp) by the morning bus next day. In his house were his nephew, Gopal, his brother's son, Sridhara - Shanmy and Kunvilla, the salesman of Rajapuram Cooperative Stores. They including your petitioner slept in the portico of the house. At about 6-30 a.m. next day he woke up and went to Kanhangad Catholic Church to attend the mass. There he was told that there was no mass as the - Rev. Father was absent and so he partook in the catechism. At about 7-00 a.m when he stepped out to the road and came in front of the house of D.w 2. N.K. Nambiyar, his brother-in-law, Mani, D.w 7, P.w.15. Keshava Kamath and Kunvilla, the Sales-man of the Rajapuram Colony Cooperative Stores met him there. D.w.7, Mani told him that the hut in Chemiakat had been burnt down by P.w.18. Kelu Nair with the assistance of about 60 persons and that petitioner's mother and brothers etc were driven out. Immediately he went to D.w.2, N.K. Nambiyar the advocate, who advised him to obtain a report from the village munsiff and file a complaint with the Police. From there he went in search of the village munsiff - Mani he could not meet there and he prepared a complaint and when he went to Sri K. Kunaran Nair and the Criminal Vakil who was absent, his clerk advised him to contact the - village munsiff and the latter would send up reports to the police and magistrate. He then - went to Pudigakottai as it is in front of the police station there, that buses stop, and while waiting for the bus, he told the Station Writer about what he heard from D.w.7, Mani. The Station Writer advised him to get the village munsiff's letter but some other constable asked him to give a - petition

Ex. para 20 pp. 62-63 Amle

para 6 pp 15-16 Amle

para (iii) pp 12-13 Amle

Ex. para 31 pp. 93-94 Amle

petition in English. So, he got a petition written by one R.N.Nair, but before he could present it, lorry with rice had arrived there. This lorry was proceeding to the Rajapuram. So, he signed the petition and asked the R.N.Nair to present it at the police station as he was all in a hurry. The other occupant of the lorry was Shri K.V. Ramunni Nair, Taluka Supply Officer of Kasaragod. He reached Odayanchal where the Patel was said to be Camping, at about 10-00 a.m. and there he saw Head Constable 293 Souza was engaged in conversation with the Patel and he explained everything to Patel. The Patel promised that he would visit the place and then give a written complaint. So, petitioner left for Panathady. The Head Constable did not accompany inspite of his request to do so.

When he was about to board the lorry two persons Shri V. Kunhappa and Shri. K. Joseph came and told him that "at about 7-00 or 7-30 a.m. in the morning, there was a stabbing incident at Chanakat in which petitioner's mother and brothers were injured." They also spoke to the burning down of the hut in the midnight and the forcible eviction etc. Then they including petitioner got into the lorry and went to the Rajapuram and after unloading the rice there they proceeded to Chanakad having along with them the Shamsuddin and some others from Rajapuram. They reached the spot at about 12-00 Noon. He saw his mother and brothers lying under a tree near the gutted house. About 10 yards away from there deceased Kumi Raman, P.W.1. Ambu Nair and P.W.2 Bellachi were lying in a pool of blood underneath the tree. Near there there were some people including Kanjastha of the Raja. The lorry driver was requested to take the injured to Hospital in his lorry to which he did not agree and went away. The Patel (village munsiff) asked petitioner to fetch a taxi from Kanhangad. When he asked the Patel if it was not necessary to report the matter to the police, to which the patel said that he would send a report through him. As petitioner was going he saw a taxi at Chullika but the driver wanted the owners permission. So, the petitioner and others went to get his (the owner Abdul Kadar's) permission and also to take Patel to Kanhangad. When they were about to return Police Constable No 50 came and said that the taxi should go to the Police Station as the Sub-Inspector, Doctor and police constable wanted to go with them (Petitioner etc). At about 6-30 p.m they started for Kanhangad. They

CW 15

met a lorry in which P.w. 1, P.w. 2, P.w. 5, P.w. 8 and the petitioners brothers accused 2 and accused 3 and P.w. 8, his mother were being brought. He met the Bus, in which the injured were, when the taxi with Doctor - Sub-Inspector and himself etc were travelling reached a placed called Attayangavan, about 12 miles from Kankangad. The Doctor and Sub-Inspector and some Constables got into the Bus - and took some statements. P.w. 5, 5 and 8 were seen giving statements on behalf of P.w. 1. The petitioner was not allowed to stand near them, so, he got into the taxi and remained in it. Then the bus proceeded the doctor travelling with the injured in the bus. The Sub-Inspector, the petitioner and some Constables proceeded to the scene of occurrence where the - deceased was lying dead. P.w. 11 - Patel and some Karigastas of the Raja were there. P.w. 20 - the Sub-Inspector of police put him certain questions which he answered to the best of his knowledge then the Sub-Inspector told him that he stabbed the deceased and other He narrated to him all the events and told when he was last night and from whom he got the - message and news of the incident. The dead body was taken to Kankangad on the 21st morning He was also taken there in the taxi. At Kankangad P.w. 15 and the lorry driver George were questioned by the Sub-Inspector and on their answer the - petitioner was allowed to go his way. He attended his mother and brothers in hospital. On the 21st - the Circle Inspector of Police questioned him at the police station. On the 22nd the District - Superintendent of Police, the Inspector and the - Sub-Inspector visited the scene of occurrence and took the petitioner with them. There he explained to them everything about the land in question and showed them his records. P.w. 11 and P.w. 18 and others were also there and they raised some objection Some witnesses were also questioned and he presume they must have given the truth. So, the petitioner was let off that day also. He was required to go to Kankangad Police Station on 23rd, which he - did. He was then asked to go over there at 6 p.m. At about 9 p.m. he was arrested and kept in the Lock-up. His brother accused 3 was also brought from Hospital and kept under lockup. After - about 15 days, his elder brother was brought from Hospital and kept in lock-up. These are the real facts.

From what he had heard from those who were eye-witnesses, on the 19th May 1952 a large number of persons about 50 to 60 persons came to Chamakat at midnight from Panathady Padham where Ravivarma Raja of Nileswar was camping and pulled down the superstructure of the hut petitioner had constructed and burnt it. The fire seemed to have extended to the - adjoining

adjoining hut, where the deceased and his people were living and it was also gutted. They tortured his brothers and threw them on the roadside and they asked for the petitioner with a view to teaching him a lesson as the petitioner was their main target, but as he was away, their wrath was turned to the other occupants. Earlier in the day, when he had been to Kanhangad - Rajah Ravi Varma came with about 15 persons and had a survey of the place to arrange a raid that night. When the party had left the place after destroying the hut and dragging his people out, the latter again went and squatted on the basement of the burnt down hut. Meanwhile, the deceased Kunhiraman and others had left the place Kunhiraman himself and some others to his wife's house which was in close proximity and in front of the huts - and the others left for Panathady. At about - 7-00 or 7-30 am the following morning the - deceased Kunhiraman and about 10 or 12 persons from Panathady, came back to the occurrance and and demanded the petitioner's people to clear out of the place, with them were P.Ws-1 and 2 on their refusal to do so there was hot exchange of words followed by an affray and stabbing with knives - which were in their persons. On seeing that his younger brother and mother were being severely beaten up and that their as well as his own lives were in danger, the petitioner's elder brother, accused 2, Kelappan, appears to have used his knife for self-defence. This might have inflicted a fatal injury on the - deceased Kunhiraman. Accused 2 Kelappan himself bear testimony, to the fact that the - fatal injury was from the knife he held.

It is the usual course of Justice - without attributing any motive in submitting this - that those who suffered much in a fight get all sympathy however unjust might have been their actions. He do not, therefore submit anything in the way of an argument, excepting that he has stated above which he swear - upon God - are true to the best of his knowledge and that he was not at all a party to the - fight that took place on the morning of - 20-5-52 - at Chamakad.

In one thing he was forced to give a false statement, by the defence - advocate and that was about the letter - he sent to P.W. 15, Keshwa Nayath. His lawyer opined that in order to save one self from - fallacy there was no harm - giving a false statement and hence he denied having sent any letter to P.W. 15. As already confessed in a foregoing para, he again confess having sent the letter and the circumstances under which it was sent have been explained

He may be permitted to point out that

here

under emportance and weightage has been given to that letter, on which the conviction is based. In the Court of Sessions he could not engage good defence lawyers and they did not represent the actual facts as observed by Sri. Ethiraj - the defence counsels in the High Court - vide the High Court Judgment - page 7, It was that this instigation of the counsels - that he was compelled to deny the knowledge of that letter. It was later on learned that - the defence counsels in the Sessions Court - were the tenants of the relatives of Nelesvara Rajahs. They even prevented him from producing several records relating to the matter under - dispute viz, receipts for rents paid for the - lands - some of which he learnt destroyed by the advocates themselves after obtaining them from his father - under the plea of defending him. When a client who is in jail entrusts - everything to his lawyers and when the latter prove to be untrustworthy and easily - vulnerable for other considerations from the opposite party - the client is helpless and he has only to leave everything to the Almighty.

With such a conviction in mind - he pray, that the Government may be pleased to view true facts in the proper prospective and do Justice. He can only pray in the name of truth and not justice - as it is not always possible to establish - truth in a Court of law. He is - facing gallows for acts accidentally committed by his brothers - who confessed the truth in the - fight which occurred on that day.

He has a young wife and children. He is aged 28 years. He has aged parents and all the three sons are in jail. Under the - circumstances, if the Government cannot - see their way to releasing him and exhonerate him He pray, that he might at least be saved from the dire consequences to which end Your - Excellency, may be pleased to exercise Your Excellency's benign prerogative of Mercy - upon him. So that his family might live - in the hope of seeing him after a few years if he is destined to go out from Prison - hale and healthy.

Once again praying to be excused for the liberty taken in writing this second petition which has relieved a burden in him of having explained certain true facts to the Government.

P. T. Krishnan

D. T.

Your Excellency's humble petitioner

L.D

60132 b

Certified that the contents have been explained in his vernacular, explained to him and acknowledged by him to be correct.

[illegible]

Superintendent

Central Jail Panamure

TWO DRAFTS.

Home Department.

Memo. No.101326 Cts.I/53-9, d/29-10-53

PETITION FOR MERCY
URGENT.

Petition for mercy.

Ref: Letters from the Supdt. of the Central Jail Cannanore, No. R.15/2428/53. d/23.5.53 and No. R.15/3606/53, d/22.7.53.

Having considered the circumstances of the case set forth in the foregoing papers, the Governor of Madras sees no reason to interfere with the sentence of death passed on convict No. 4628, P.T. Kuriakose.

2. The condemned prisoner should be inrormed that the State Govt. have also considered and rejected the following petitions for mercy submitted on his behalf:-

(1) two petitions from Sri K. Hari, d/5.6.53:- one addressed to the State Govt. and the other to the President of India direct;

(2) a petition d/6.6.53, from the convict's Counsel, Sri M.C. Sridharan;

(3) a petition d/5.6.53, from Sri Kuriakose, son of Sri Vattamparamben Thomman and Sri Joseph, son of Sri Kizakke Chirakkunnil of Panathadi village;

(4) five petitions from certain residents of Hosdrug Sub Taluk; and

(5) a petition d/24.6.53, from the convict's wife; Srimathi Chinnamma.

3. The petitions addressed to the President of India will be forwarded to him and the execution of the prisoner should be postponed until the receipt of the orders of the President.

To the Supdt., C.J., Cannanore.
Copy to Sri K. Hari, residing near Kailas Talkies, Post Kanhangad, South Kanara Dt.
Copy to Sri M.C. Sridharan, Advocate, High Ct., Madras.
Copy to Sri Kuriakose, son of Sri Vattamparamben Thomman, residing at Panathady village, Kasargod Taluk, South Kanara Dt.
Copy to Sri M. Kora, Panathady village, Kasargod Taluk, South Kanara Dt.
Copy to Sri Thommey Ezharath, Panathady village, Kasargod Tk., South Kanara Dt.
Copy to Srimathi Chinnamma, Kadalical House, Edamaruku Kara, Karimannoor Pakuthy, T.C.State.

210

II.

Express Lr./Ref. No: 101326-Cts.I/53-10,d/ 29-10-53

To

The Secy. to the Govt. of India,
Ministry of Home Affairs,
New Delhi. (With records, copy of pp.1-20 n.f. & pp.97, 115-127 & ~~155~~ 173-192 c.f. in orgl.)

Sir,

In accordance with instruction III of the instructions for the submission of petitions for mercy, I am to forward for the orders of the President of India the accompanying petitions, viz., two from the convict, No. 4628, P.T. Kuriakose, confined in the C.J., Cannanore, and four petitions, on behalf of the convict, from certain residents of Mosdrug Sub Taluk in South Kanara district, praying for the remission of the sentence of death passed on the convict by the Sessions Judge of South Kanara and confirmed by the High Court of Judicature at Madras.

2. This Govt. have considered these petitions but have seen no reason to differ from the finding of the High Court. A copy of the summary of the case prepared for the use of this Govt. and a statement showing all the relevant dates of the case are attached. They have no recommendation to make on behalf of the convict.

3. There was some delay in the committal of this case to the Sessions due to the transfer of the case from the file of the Magistrate before whom the charge-sheet was filed to the file of another Magistrate, as the former was a witness in the case. Some delay occurred

Ord (with) by AG 2.11.53 and the statements as (K)

Mr 77-82 cf 4 Mrs 199-206 cf

Mr 115-127, Mr 155-192 cf

Orders on on P 20 nf.

Mr 1-20 nf

(K)

A on P 89 ff

3e

'Bimpoef

in the Sessions Court also as an important witness in the case was ill and was an in-patient in the hospital, with the result that the case had to be reposted in the Court of Session to a later date.

4. The execution will not take place until the orders of the President of India are received.

Yours faithfully,

28/10 28/10/53

29 Oct 53

213

Petition for mercy - Urgent.
No.R.15/4069/53.

Office of the Superintendant,
Central Jail, Cannanore,
Dated/4th November, 1953.

From

Sri.K.P.R.Menon,
Superintendent,

To:

The Secretary to Government,
Home Department, M a d r a s.

Sir,

Sub: Petition formercy - condemned prisoner :
No.4628, P.T.Kuriakose - Regarding.
Ref: Government Memorandum No.101326 courts 1/53/9
dated 29-10-53.

I hereby acknowledge receipt of the communication cited above

203326
7/4

Superintendent.

Copy submitted to the Inspector General of Prisons, Madras with a copy of Government Memorandum No.101326 courts 1/53-9 dated 29-10-53.

EXPRESS

215

11.82,490—24-12-52

Madras Jail Department | Received Registered

From (Name) Sri.K.P.R.Menon,
Designation Superintendent,
Station Cannanore.

To
The Secretary to Government
Home Department,
Madras.

Enclosures:

No. R.15/4898/53, dated 12th November, 1953.

Sir,

Petition for Mercy - Urgent.

Sub: Petition for Mercy - Condemned prisoner, No.4628, P.T.Kuriakose - Petition from Co-accused Convict No.4634, Ulahannan (A.2) and convict No.4631, Thommi alias Thomas - Submitted.

207397
14/11

I submit herewith a petition (in duplicate) presented to me by convict No.4634, Ulahannan and convict No.4631, Thommi alias Thomas praying the President of the Indian Republic for mercy on co-accused condemned prisoner No. 4628, P.T.Kuriakose who is the brother of the petitioners.

In Government Memorandum No.101326 courts 1/53-9, Home Department dated 29-10-53, the Governor of Madras declined to interfere with the sentence passed on this condemned prisoner.

The Nominal Rolls of the two prisoners in duplicate are also submitted herewith.

Superintendent.

Copy submitted to the Inspector General of Prisons, Madras with a copy of the petition and nominal rolls of the prisoners.

Since this petition from the two prisoners is for mercy I have submitted it direct to Government to save delay.

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-18. 19.000—11—6—52. 217

NOMINAL ROLL OF MALE* CONVICT No. 4634 A.

Name Uthaman S/o Thomman

Residence (Village, Taluk and District). Panathadi; Kasaragod; S. Kanara

Caste Koran, Present age 28 years, Occupation Cultivation.

Section and Code under which imprisoned. Sec 307 and 436 IPC

Original sentence of order and date. R.I. 7 years for each offences. Sentences to run Concurrently 19-8-12-52

Adjudicating Court and Calendar number of case. Sessions Judge, S. Kanara. S.C. 36/52

Unexpired term of sentence after deducting remission earned. 6 year (s) 4 Month (s) 21 Day (s).

Present state of health and fitness to undertake a journey † IH

218

Result of appeal (if any)— Dismissed in CA 797/52 d/16.6.52 by the High Court, Madras

Conduct in Jail — Good

Personal and descriptive marks§ — 1) Black mole tip of nose.

2) Scar 3" from Rt. nipple at 2-30 o'clock

Remarks — Clare — Dark Rice — Edu. A.

Remission earned 20 days. Released on Bail 30.12.52

Re-arrested 18.5.53

Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether 1st or 2nd) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M. P. and R. M.)

Cannanore Central JAIL,
12.11.1953

Superintendent,

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-13, 19,000—11—6—52.

NOMINAL ROLL OF MALE* CONVICT No. 4631 † A

Name Thomas @ Thomas S/o Thomman

Residence (Village, Taluk and District). Paralthadi; Kasaragod; S. Kanara

Caste Nair, Present age 24 years, Occupation Cultivation

Section and Code under which imprisoned. 307 and 436 IPC

Original sentence of order and date. RI 7 years for each offences. Sentences to run Concurrently 6/8.12.52

Adjudicating Court and Calendar number of case. Sessions Judge, S. Kanara - S.C. 36/52

Unexpired term of sentence after deducting remission earned. 6 year (s) 4 Month (s) 21 Day (s).

Present state of health and fitness to undertake a journey † Ill

220

Result of appeal (if any) Dismissed in C.A 497/52 & 16.6.53 by High Court Madras

Conduct in Jail Good

Personal and descriptive marks§ 1" Blackmole 1" above outside end of Rt. Collarbone
2" Blackmole 6" above from navel at 12 o'clock Position

Remarks Class. Diet Rice - Edn. A.
Remission earned 20 days.

Released on bail 30.12.52
Re-arrested on 18.5.53
Afresh T.38 days

* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M. P. and R. M.)

Cannanore Central JAIL,
12.11. 1953

23. 4. 60
18. 11. 53.
11. 5. 46
20
21. 4. 6.

Superintendent.

224

To

His Exalted Excellency the President of theIndian Republic,
New Delhi.

May it please Your Excellency,

I, the humble petitioner, convict No.4634, Ulahannan beg to submit that:-

I am the second accused in Sessions Case No.36 of 1952 on the file of the Sessions Judge, South Kanara, the other two accused, accused 1, Kuria Kose and accused 3, Thommi alias Thomas being my younger brothers. The first accused was sentenced to death and 7 years R.I. and the 2nd and 3rd accused to 7 years R.I. each. The sentences were confirmed by the High Court of Judicature, Madras in referred trail No.15/53 and Criminal appeal No.797/52 The several petitions for mercy submitted by and on behalf the first accused, my brother convict No.4628, P.T.Kuria Kose were rejected by His Excellency the Governor of Madras. Hence this petition.

In this case my brother is quite innocent. He was not at all a party to the incident, that took place resulting in the death of the deceased Kunhiraman Nair. He was about 22 miles away from the scene of occurance and partly due to the inefficiency of the defence counsels and more due to the influence of the Rajah of Nileswar who was the owner of the land under dispute, and the defence counsels having changed sides in favour of the prosecution because of the Rajah whose distant relations the counsels happened to be, the innocent man was convicted and sentenced to death. The handicap for us wasthat truth could not be revealed at any stage during the case as almost the entire village were dependants of the Rajah and the Rajahs position and money completely changed the case to suit the prosecution. The following are the simple facts of the case:-

I and my brother were living in a plot of land obtainedd from a subtenant of the Rajah of Nileswar. The agents of the Rajah did not like us, the Syrian Christian settlers, who had gone there in good numbers. The Rajah had succeeded in evicting a good number of them. My brother was the salesman in a [illegible]

and spent the rest of the time underneath the trees. In the early hours of the morning, to our horror, the deceased Kunhiraman and about 8 to 10 persons came again and asked us why we did not leave the place. I replied that we could do so only after the return of Kuriakose, the first accused. This followed altercation and the deceased hit me on my head with a knife. The others of the party had meanwhile overpowered the 3rd accused, my younger brother Thommi alias Thomas. They then surrounded me and felled me on the ground. My life was in danger and I drew out my knife and stabbed the deceased Kunhiraman. It was with the injuries inflicted by me that the deceased Kunhiraman died. Several persons had received injuries including me and my younger brother, accused 3, Thomas. That afternoon, my brother Kuriakose, accused 1 and the village officers came to the spot. These are the stark facts.

For this, my innocent brother has been convicted and sentenced to death. It is a fact that he had written a letter to one of his friends requesting help for labour and money to put up a new shed and in it it was stated that he did not know what might happen. This letter was later on seized and it was given undue importance in implicating my brother in this case. Whatever be his intention in writing it, I swear upon the Lord Almightly the Saviour, that my brother had no hand in this case and the deceased died due to the injuries inflicted by me during the course of the fight. The intention of including my brother is that he was popular and was managing our affairs and was defiant to the Rajah.

The entire family consisting of our aged parents, 3 young brothers, all of tender ages, an uncle who is mentally deranged, mine and my brother's (accused 1) young wives and children - altogether over 25 members - who were entirely dependant on 3 of us, face ruin and starvation. It is doubtful if the parents can survive these calamities and if the extreme penalty of law should snatch the life of my brother,

------(con)

innocent as he is.

It is beyond the scope of the petitioner or anybody else, to change the course of law but it is our humble and earnest prayer that his life may be saved as he is still in his twenties and the future of his young wife and children with none else to support them will meet with complete destruction.

With this fervant prayer,

I beg to remain,
Yours Excellency's humble petitioner,

Ulakannan

I, convict No.4631, Thommi alias Thomas, 3rd accused in this case solemly declare in the name of Jesus Christ that the above is a true account of the happening and that our brother Kuriakose is absolutely innocent in the affair, as I was an eyewitness and partly to the whole indident. I join in the prayer to save his life.

Thommen

Certified that the contents have been translated in their vernacular explained to them and acknowledged by them to be correct.

Central Jail, Cannanore,
D/12th November, 1953.

Superintendent.

EXPRESS

229

11,82,490—24-12-52.

Madras Jail Department

From (Name) Sri.K.P.R.Menon,

Designation Superintendent,

Station Cannanore.

Received ASSISTANT SECRETARY TO GOVT. Registered

To 16

The Secretary to Government,
Home Department,
Madras. HOME SECRETARIAT

Enclosures:

No. R.15/4932/53, dated 14th November, 1953.

Sir,

Petition for Mercy - Urgent.

Sub: Petition for mercy - condemned prisoner No.4628, P.T.Kuriakose - Further petition - submitted.

p73 ante

Ref: 1) This office R.15/2428/53 dated 23-5-53 and R.15/3606/53 dated 22-7-53. p197 ante

207742

4/6/54 p209 ante

2) Government Memorandum No.101326 courts 1/53-9, Home Department, dated 29-10-53.

In continuation of this office letters cited above I submit herewith a petition for mercy addressed to the President of India in duplicate from condemned prisoner No.4628, ~~Rx~~ P.T.Kuriakose.

p231-37 infra

The Governor of Madras declined to interfere with the sentence passed on this condemned prisoner in Government Memorandum No.101326 courts 1/53-9 Home Department, dated 29-10-53.

209 ante

Superintendent.

To

His Most Exalted Excellency the President of the Indian Republic, New Delhi.

Through

Proper channel

May it please His Exalted Excellency,

Petition for mercy submitted by condemned prisoner No.4628, P.T.Kuriakose, convicted by the court of Sessions, South Kanara Division, Mangalore in S.C.No.36 of 1952, the sentence having been confirmed by the Honourable the High Court of Judicature, Madras in Referred Trial No.15 of 1953.

I had submitted, in my petition for mercy addressed to His Excellency the Governor of Madras, the circumstances of my case, in a fairly explanatory way. As misfortune would have it, it was rejected by him and the petitioner has been informed in Memo No.1326, Courts 1/53-9 dated 29-10-53 of the Home Department of the Government of Madras that the petitions addressed to Your Benign Excellency have been forwarded. It is still with a lingering hope that I am now approaching Your Excellency for sympathy and mercy.

p209 ante

2. My efforts, all the while, to prove my innocence have been fruitless. It is because of my innocence that I am impelled by my conscience to submit this, my last representation. If I had been even present at the place of occurance I would have boldly faced the extreme penalty of law. It is now quite futile to argue my case but just as any dying man would do, I shall once again lay the following few lines which might go to releive the burden of my heart to some extent.

3. I am a Syrian Christian settler from Travancore having gone to Rajapuram Colony in Panathady village of South Kanara District in search of lands on lease for cultivation. I received 6 acres of land on lease from a sub tenant of the Rajah of Nileshwar. There are records to prove this. My

.....(con)

two brothers, A.2 and A.3 in the case joined me later on. Besides cultivation I was a sales man in a Co-operative Stores there. The agents of the Rajah, one Kelu Nair wanted to evict us from the land. But he did not succeeded and later on, the possession rights were sold to me for Rs.600/- for which a sale deed was written. But since the owner (Jerome) was a powerful, influential and rich person, the Rajah of Nileshwar, his agents thought it fit to take the law into their own hands, with the connivance of the Rajah. I represented the whole affair to the Rajah who promised to look into it when he visited our village but when he came there he ~~refused~~ refused to listen to me and threatened to evict me from the place. I then consulted several of the villagers who were all of the view that my stand was correct and that in any case, I need not vacate the plot. During May 1952 when I and my two brothers (Ulahannan (A.2 in the case) and Thomai alias Thomas (A.3 in the case) and my parents and other members of the family had left the place for a short period. During this absence the Rajahs' agents, one Kelu Nair installed one Kunhiraman and his family in the hut situated in the plot under dispute. On our return we begged this Kunhiraman to leave this place. We had already raised tapioca, ginger and turmeric in the land and wanted to supervise the cultivation as well. So on the 19th of May, on the advise of several elders of the village we put up a thatched hut close to the original house as we had no other place there to go to and the deceased Kunhiraman had refused to leave the house. Since I had not completed the work of constructing the second shed, I wrote to P.W.15, Keshava Kamath for labour, money and rice. This letter as already explained in details in my second petition for mercy, was given undue weightage and importance

.....(con)

on which my conviction is entirely based. The Rajah accompanied by some of his men visited the land under dispute and this visit was thought the forerunner of the impending troubles from him and this is one of the reasons why I hurried to Kanhangad that day to see the police. This is what I know personally about this affair and what happened later on was during my absence. The whole of the night and till late in the evening next day I was away. Only in the following morning at about 7.30 I learnt from P.W.7 Nani that there was any incident and this was from Kanhangad, a place 22 miles away from the scene of the incident. I could return to my place very late that evening. The police did not at all suspect me first on my giving a full and true account of the entire happening and it was later on that, on account of the presure from some influential source that I was included as an accused. I have given all details in my petition to His Excellency the Governor of Madras.

As a dying mans wish I wanted to state truth and only truth before Your Exalted Excellency, who is now the head of a great nation which is noted for its Ahimsa and Dharma for ages. In the name of the Lord Almighty, the Supreme power which guids the destiny of every being in the whole universe, I swear that I am quite innocent as far as this murder is concerned.

From the eyewitnesses and as narrated by my own brothers, A.2. Ulahannan and A.3, Thomi alias Poras, I have heard that the fatal stab came from the knife of my brother A.2. Ulahannan and that it was with a motive that I have been implicated.

I was influential in this colony established by the Syrian Christians, known as the Rajapuram Colony. On several common matters I was consulted and as such the vindictive

.....(con)

237

Rajah wanted to drive me away from there and this was an opportunity for him to implicate me.

In time, I submit that I have a large family of about 25 members including 3 of my younger brothers, my parents, father's brother who is mentally deranged, my wife and children all depending for their existence on us the 3 brothers of whom two are in the jail with 7 years R.I. each and I awaiting my fate from Your excellency, innocent though I am.

It serves no purpose dilating on the case now,. Under the circumstances I pray that Your excellency may be pleased to excercise the prerogative of mercy on this humble subject of yours and save me from this extreme penalty of law and my family from utter destruction.

With fervent hopes and prayer,

I beg to remain
Your humble petitioner,

I P.T. Kuriakose

Certified that the contents have been read over to the prisoner in his own language and acknowledged by him to be correct.

Superintendent.

Central Jail, Cannanore,
Dated/14th November, 1953.

239

PETITION FOR MERCY
URGENT.

Home Department.

Ex.Lr. No. 101326 Cts.IV/53-11, d/ 18/11/53

To

The Secy. to the Govt. of India,
Ministry of Home Affairs,
New Delhi (with encls.)

Sir,

Petition for mercy - Condemned prisoner No. 4628, P.T. Kuriakose - C.J., Cannanore.

Ref:- My Express letter No. 101326 Cts.I/53-10, Home, d/29.10.53.

In continuation of the letter cited, I am to forward for the orders of the President, a further petition dated 14.11.53, from the condemned prisoner, P.T. Kuriakose, mentioned above, and a ~~further~~ petition dated 12.11.53, on behalf of the condemned convict, submitted by the co-accused in the case, who were sentenced to a term of imprisonment, along with their nominal rolls.

2. The execution of the prisoner will not take place until the orders of the President of India are received on these petitions.

Yours faithfully,

EXPRESS LETTER. REGISTERED.

No. 32/180/53-Judl.
Government of India
Ministry of Home Affairs.

From

Shri Gulzar Singh, M.A.,
Under Secretary to the Government of India.

To

213199-C/P The Secretary to the Government of Madras,
Home Department, Madras.

New Delhi-2, dated the 24th November 1953.

Your letters No. 101326 Courts.I/53-10 dated 29th October and No. 101326 Cts.IV/53-11 dated 18th November. The President of India declines to interfere on behalf of P.T.Kuriakose under sentence of death in the Central Jail Cannanore. Petitioner may be informed accordingly.

2. Records are returned herewith.

Gulzar Singh
(Gulzar Singh).
Under Secretary to the Government of India.

Drafts I II & III in one envelope. Three drafts

Petition for mercy

I

URGENT.

443

Home Dept. I-23—302—27-5-47.

HOME DEPARTMENT.

President's

Petition for mercy—~~Governor-General's~~ refusal to interfere—Communicated—

Condemned prisoner No: 4628, P.T. KURIAKOSE—C.J., Cannanore.

C. No. 101326 Ct. IV/53 From the ~~Deputy~~ Secretary to the Government of India, Ministry of Home ~~No. Affairs~~, no. 32/180/~~dated~~ 53-Judl., ~~191~~ d. 24-11-53.

P.P. 341 C.P.

Order—R. No. 4048 **dated** 26-11-53

~~(President of India)~~

The ~~Governor-General~~ has declined to interfere with the sentence of death passed on condemned prisoner No. 4628, P.T. Kuriakose,

confined in the Central Jail, Cannanore.

Rm 26/11/53.

fbs 26/11/53

To the Superintendent, Central Jail, Cannanore (w.r.t. correspondence resting with his letter, R. 15/4932/53, d. 14-11-53)

" ~~Hon'ble the Chief Justice~~ with reference to letter No. B.E. 193/53, dated 7.5.53 and C.A. No. 797/52 (R.T. no. ~~of 191~~ 15/53)

" Sessions Judge, South Kanara (Ref. S.C. No. 36/52 ~~of 191~~).

Copy to the Inspector-General of Prisons, Madras.

Copy to Sri K. Hasi, residing near Kailas Talkies, Post Kankangad, South Kanara district.

Copy to Sri M. Koraga, Panaltady village, Karangod taluk, S. Kanara dt.

Copy to Sri Thimmen Hegade, Panaltady village, Karangod taluk, S. Kanara dt. P.T.O.

Regd. Dispatch

27 XI 53

244

11

Home Dept. I-24—302—27-5-47.

GOVERNMENT OF MADRAS.

HOME-DEPARTMENT.

Express Letter, R. No. 4049 dated 26-11-53

To

The Secretary to the Governor-General (Public), Government of India, Ministry of Home Affairs
New Delhi.
~~Simla.~~

Sir,

Condemned prisoner No. 4628, P.T. Kuriakose.

241 GP. *Reference.*—Express Letter No. 32/180/53-Judl., dated 24-11-1953, from the ~~Deputy~~ under Secretary to the Governor-General (Public), Government of India, Ministry of Home Affairs.

I am ~~directed~~ to acknowledge receipt of the Express Letter quoted above stating that the President of India ~~Governor-General~~ has declined to interfere on behalf of prisoner No. 4628, P.T. Kuriakose,

under sentence of death in the Central Jail, Cannanore.

Rm 26/11/53

26/11/53

Y.P.

~~Your obedient servant~~,

P.S.O.

ch IV

24-5

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To [illegible] Recd. here at [illegible] H. 15 M.

Sentence remitted forever 4 E 25 of T Kuruakose Convicted on 6 C 2152 of Sarama Kanara Kannura and Confirmed in R T 15/53 by Hgh Court executed first december the Peace of India declared on 7 C R 4048 thereafter dated twentysixth [illegible]

N. B.—The name of the Sender, if telegraphed, should be written after, but separated from the text.

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Petition for Mercy - Urgent

847

C.F. 23 11,82,490—24-12-52

Madras Jail Department

From (Name) Sri.K.P.R.Menon.

Designation Superintendent,

Station Cannanore.

Received Registered

To

The Secretary to Government,
Home Department,
M A D R A S.

ASSISTANT SECRETARY TO GOVERNMENT HOME DEPARTMENT

Enclosures No. R. /3457/53, dated 28th November, 1953

Sir,

Sub: Petition for mercy - Presidnet's refusal to inderfere - Communicated - Condemned prisoner No.4628, P.T.Kuriakose - Central Jail, Cannanore.

21671
1/12

Ref: Government Order R.No.4048, Home Department, dated 26th November, 1953.

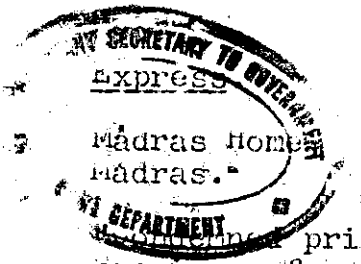
p243 ante

I hereby acknowledge receipt of the communication cited above.

Superintendent,

Copy submitted to the Inspector General of Prisons, Madras for favour of information.

Copy of the telegram dated 1-12-53, from the Superintendent, Central Jail, Cannanore to The Secretary, to the Government, Home Department, Madras.



Express State.

Madras Home
Madras."

Executing prisoner 4628, P.T.Kuriakose, concerned in S.C.36/52 Sessions of South Kanara and confirmed in M.T.15/53 by High Court executed first December. The President of India declined in G.O.M.4048 Home dated twentysixth November".

Central Jail.

No.M.15/5769/53
D/1-12-53.

Fost copy submitted to the Secretary to Government, Home Department, Madras with a nominal roll of the prisoner

Superintendent.

216722
2/12

Copy submitted to the Inspector General of Prisons, Madras with a nominal roll of the prisoner.

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-18, 19,000—11—6—52. 251

NOMINAL ROLL OF MALE* CONVICT No. 4628. A.

Name P. T. Kuriakose. S/o. Thommen.

Residence (Village, Taluk and District), Panakadi, Kasargod, S. Canara

Caste Xian Present age 25 years, Occupation Cultivation

Section and Code under which imprisoned, See 302 I.P.C. & 436 I.P.C.

Original sentence of order and date, Death and 7 years R.I. on 8.12.52

Adjudicating Court and Calendar number of case. Sessions Judge South Canara S.C. 36/52

Unexpired term of sentence after deducting remission earned, EXECUTED ON 1-12-53. year (s) Month (s) Day (s).

Present state of health and fitness to undertake a journey †

B. 25 v

Result of appeal (if any) Rejected in CA 797/52 and RT. 15/53 D 16.4.53 by Hig
Court, Madras. W.P. rejected by Madras dismd & interim st
29.8.58. (3) the President of India dismd & interim st D 26.11.53

Conduct in Jail Good

Personal and descriptive marks§ V Black mole 2" above the Rt nipple at
12 o' clock position (2) Black mole Rt side of root of nec

Remarks Less-5, Jail-Rec, Sdn-A

EXECUTED ON 1-12-58

Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No, 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assis tance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol, II, M, P and B, M.)

Cuddapah JAIL,
1-12-1958

Superintendent,

Petition for Mercy

2534

C.F. 32 (a)— 14,29.016—5-10-51

Jail Department

From (Name) Sri K.G. Menon, I.C.S.,

Designation Inspr.Genl.of Prisons,

Station Madras.

Received 1 Dec 53 Registered

To The Secretary to Government,
Home Department,
Madras.

Enclosures:

No. 108/S4/53, dated 28-11-53. 195 .

Sir,

216191

Sub: Petition for mercy - President's refusal to interfere -Communicated - Condemned prisoner No. 4628 P.T.Kuriakose -Central Jail, Cannanore.

Ref: G.O.R.No.4048, Home, dated 26-11-53.

- - -

The receipt of the G.O.cited is hereby acknowledged.

FOR INSPR.GENL.OF PRISONS.

TMS/28.11.53.

Home Dept

A.S. I

pp. 1-9 above are submitted for perusal. The main file has been circulated for approval of the draft PRESS NOTE. These papers may be added to file on its return from circulation.

Rus
2/12/53.

2/12/53

Home Department.

Press Note. No 180 / 4.12.53

P.T. Kuriakose of Panathady, Kasargod taluk, South Kanara Dt., who, on 20.5.52, murdered Kunhiraman Nayar of his village, and was sentenced to death by the Court of Session, South Kanara, was executed on the 1st December 1953, in the C.J., Cannanore.

GOVERNMENT OF MADRAS.
Public (Information and Publicity) Department.

***

PRESS NOTE NO.180, DATED 4TH DECEMBER 1953.

...

P.T. Kuriakose of Panathady, Kasargod Taluk, South Kanara District, who, on 20th May 1952, murdered Kunhiraman Nayar of his village, and was sentenced to death by the Court of Session, South Kanara, was executed on the 1st December 1953, in the Central Jail, Cannanore.

Issued by:
The Director of Information and Publicity,
Government of Madras.

SMB:4.12.

Printed for Court.
Material Object Nos. 8 and 9—Sent.

HIGH COURT.

REFERRED TRIAL
No. **15 of 1952.**

Criminal Appeal No. 797 of 1952.
P. T. Kuriyakose and two others,
Accused 1 *to* 3.
By Mr. M. C. Sridharan.

SOUTH KANARA DISTRICT.

Records.
in
S.C. No. 36 of 1952.

To be heard on

PRINTED AT THE GOVERNMENT PRESS, MADRAS.

INDEX.

IN THE COURT OF SESSION, SOUTH KANARA DIVISION.

Sessions Case No. 36 of 1952.

Serial No.	Description of paper.	Page
1.	The charge	7
2.	The plea of the accused	8
3.	Record of oral evidence for prosecution—	
	1. Sri Ambu Nayar	8
	2. Srimathi Bellachi	14
	3. Kumari Parvathi	19
	4. Sri P. Kunhi Anandan Nayar (Sub-Magistrate)	21
	5. Sri Ambu Nayar	22
	6. Dr. M. Keshava Pai (Honarary Medical Officer, Local Fund Hospital, Hosdrug)	25
	7. Dr. T. E. Unny (Civil Assistant Surgeon, Kasaragode)	29
	8. Sri Raman Nambiar	31
	9. Sri K. Srinivasa (Police constable No. 555)	34
	10. Sri Ambu (talayari)	ib
	11. Sri M. Kunhiraman Nambiar (Patel)	36
	12. Sri P. K. K. Nambiar (clerk)	38
	13. Sri Laxman Nayak	39
	14. Sri Ananda	41
	15. Sri Keshava Kamath	43
	16. Sri K. Chandu Nair	45
	17. Sri Kunhambu Nair (Patel)	46
	18 Sri Kelu Nair	47
	19. Sri H. Madava Bhat (Shanbhogue)	53
	20. Sri J. Anantharaman (Sub-Inspector)	56

Serial No.	Description and date of paper.	Page
4.	Examination of the accused—	
	(a) Before the Committing Magistrate of the sole accused 1 to 3—Exhibits P-27 to P-29	60—91
	(b) Before the Sessions Court of accused 1 to 3	69—93
	(c) Judge's notes.	
5.	Record of oral evidence for defence.—	
	1. Rev. Fr. Simon	95
	2. Sri N. K. Nambiar (advocate)	96
	3. Sri K. V. Ramunni Nair (Firka Supply Officer)	97
	4. Janab Anduka	98
	5. Sri Panlos	100
	6. Sri Pokumba Mathai	102
	7. Sri Mani	104
	8. Srimathi Yeli	105
	For Court.	
	1. Sri M. K. Nambiar	108
6.	Exhibits :	
	(a) Documents used in evidence —	
	For prosecution.	
	P-1/21—5—1952 Dying declaration of P.W. 1, Ambu Nair recorded by the Sub-Magistrate, P.W. 4	110
	P-2/23—5—1952 Wound certificate granted by P.W. 6, Dr. Keshava Pai in respect of the injuries on P.W. 1 Ambu Nair	111
	P-3/23—5—1952 Wound certificate granted by P.W. 6, Dr. Keshava Pai in respect of the injuries on P.W. 2 Bellachi	112
	P-4/23—5—1952 Wound certificate granted by P.W. 6 Dr. Keshava Pai in respect of the 2nd accused Ulahannan	113

Serial No.	Description and date of paper	Page
P-5/23	5—1952 Wound certificate granted by P.W. 6, Dr. Keshava Pai in respect of the 3rd accused Thomas	114
P-6/23	5—1952 Wound certificate granted by P.W. 6 Dr. Keshava Pai, in respect of the injuries on D.W. 8, Srimathi Yeli. mother of the accused	115
P-7/22	5—1952 Post-mortem certificate granted by P.W. 7 Dr. T. E. Unny in respect of the examination of the corpse of deceased (Kunhiraman Nair)	116
P-8/17	7—1952 Portions (re-examination at page 6 marked in the deposition of P.W. 7, Dr. T. E. Unny) ..	117
P-9/20	5—1952 Statement of the talayari P.W. 10 recorded by the Patel, P.W. 11	ib
P-10/20	5—1952 Report of the Patel, P.W. 11 to the officer-in-charge of the Police station at Hosdrug ..	ib
P-11/10	6—1952 Office copy of the letter of the Sub-Magistrate, Hosdrug forwarding the properties to the Chemical Examiner, Madras, for examination	118
P-12/19	6—1952 Report of the Chemical Examiner, Madras	119
P-13/23	6—1952 Report of the Government Serologist, Calcutta	120
P-14/19	5—1952 Letter of 1st accused P. T. Kuriakose addressed to P.W. 15 Sri Keshava Kamath ..	121
P-15/15	5—1950 and 30—6—1951 Issue register for the South Kanara Co-operative Wholesale Depot Hosdrug.	122
P-15 (a)/19	5—1950 Signature of first accused in the Issue Register, Exhibit P-15 at page 4	ib

Serial No.	Description and date of paper.	Page
	P-15(b)/22—6—1950 Signature of 1st accused in the Issue Register, Exhibit P-15 at page 11 ..	122
	P-15(c)/8—7—1950 Signature of 1st accused in the Issue Register, Exhibit P-15 at page 15	ib
	P-15(d)/22—5—1950 Signature of 1st accused in the Issue Register, Exhibit P-15 at page 5	ib
	P-15(e)/19—9—1950 Signature of 1st accused in the Issue Register, Exhibit P-15 at page 33	ib
	P-15(f)/30—9—1950 Signature of the 1st accused in Exhibit P-15 at page 33.	ib
	P-16/24—4—1950 Registered (assignment) deed executed by Kanar Anduka D.W. 4 and others in favour of the 1st accused	ib
	P-17 Counterfoil receipt book No 10 of Kollam 1126 of Thekke Kovilagam..	N.P.
	P-17(a)/16—9—1951 Counterfoil of Receipt No. 75 in Exhibit P-17	125
	P-18 Jama book of Kovilagam relating to Panathady for Kollam 1126 ..	N.P.
	P-18(a) Item No. 439 in Exhibit P-18 ..	125
	P-19 Receipt book No. VI of Kollam 1127 Thekke Kovilagam	N.P.
	P-19(a)/23—4—1952 Counterfoil of receipt No. 51 for Kollam 1127 in Exhibit P-19	125
	P-20 Jama book of Kovilagam relating to Panathady village for the year 1127	N.P.
	P-20(a) Item No. 439 in Exhibit P-20	125
	P-21/17—8—1934 Registered kuzhikanom marupatam executed by Mahammad in favour of Kerala Varma Thamburan Thekke Kovilagam ..	126

Serial No.	Description and date of paper.	Page
P-22/16—9—1951	Receipt for nigudi porappad granted by Kelu Nair, P.W. 18 to Andoka D.W. 4	127
P-23	Receipt book No. 2 for Kollam 1127 of Thekke Kovilagam	N.P.
P-24 9—8—1951	Loan bond executed by 1st accused to the Kallar Co-operative Society No. 4544 ..	123
P-25	Plan of the scene of offence ...	N.P.
P-26/20—5—1952	Complaint of 2nd accused recorded by the Sub-Inspector, P.W. 20	1 9
	For defence.	
D-1/8—7—1952	Portions marked (at page 3) in the deposition of P.W. 2 in the committal Court ..	131
D-2/25—4—1952	Letter of C.W. 1, Sri M. K. Nambiar to Sri Ravi Varma Raja	ib
D-3/17—7—1952	Portion marked (at page 5) in the deposition of Dr. T. E. Unny P.W. 7 (Exhibits P-8 and D-3 are portion of one document)	132
D-4/20—7—1950	Signature of 1st accused at page 18 of Exhibit P-15	N.P.
D-4(a)/29—1—1951	Signature of accused 1 at page 49 in Exhibit P-15	Do.
D-4(b)/13—7—1950	Signature of accused 1 at page 16 in Exhibit P-15	Do.
D-4(c)/29—7—1950	Signature of accused 1 at page 20 in Exhibit P-15	Do.
D-4(d)/27—2—1951	Signature of accused 1 at page 56 in Exhibit P-15	5.
D-5/16—9—51	Counterfoil of receipt No. 76 granted to P.W. 14 by P.W. 18 in Exhibit P-17	132
D-6	Certified copy of plan in respect of Re-survey No. 274/1 of Panathady village	N.P.

Serial No.	Description and date of paper.	Page
	D-7/21—5—1952 Portion of the certified copy of statement of P.W. 8 before the Sub-Inspector P.W. 20 under Section 162, Criminal Procedure Code	132
	D-8/23—5—1952 Portions marked in the committal Court of statement of P.W. 20 under Section 162, Criminal Procedure Code	132
	D-8(a)/23—5—1952 Portions marked in the Committal Court of statement of P.W. 20 under Section 162, Criminal Procedure Code	ib
	D-9/21—6—1951 Agreement executed by Anduka (D.W. 4) and others in favour of 1st accused	ib
	(b) Material objects produced in evidence—	
	1. Grinding stone.	
	1 (a). Rollery of M.O. 1.	
	2. Granite stone piece.	
	2 (a) to 2 (d) Granite stone pieces.	
	3. Half burnt iron ladle.	
	4. Coconut scraper.	
	5. Empty tin container.	
	6. Five blank sheets of paper with head of accused 1.	
	7. Half burnt cudgen torch.	
	7 (a) Half burnt cudgen torch.	
	8. Knife produced by 2nd accused.	
	9. Knife seized from 1st accused.	
	(c) List of material objects	135
7.	Opinion of assessors.	
8.	Judgment (grant).	
9.	Other miscellaneous papers.	
10.	Appeal memo.	137

Charge.

IN THE COURT OF SESSION SOUTH KANARA

Sessions Case No. 36 *of* 1952.

I, Sri P. T. Raman Nair, I.C.S., Sessions Judge of South Kanara, hereby charge you, (1) P. T. Kuriakose, son of Thomman of Panethady, (2) Ulahannan, son of Thomman and brother of first accused, residing in Panethady, (3) Thommi alias Thomas, son of Thomman and brother of first accused, residing in Panethady village, as follows:—

Firstly.—That you accused 1 to 3 at about 5 a.m. on the 20th day of May 1952 at Chennakad in Panathady village in furtherance of the common intention of all of you, did commit murder by intentionally causing the death of Kunhirama Nayar, son of Ambu Nayar, the first accused amongst you stabbing him to death with a knife, and that all of you thereby committed an offence punishable under Section 302, read with Section 34 of the Indian Penal Code, and within my cognizance.

Secondly.—That you accused 1 to 3 on the same day at the same time and place and in the course of the same transaction did, in furtherance of the common intention of all of you, attempt to murder prosecution witness Ambu Nair, you the second accused stabbing and causing grievous hurt to him with such intention and knowledge and under such circumstances that if by that stabbing you had caused the death of the said Ambu Nayar, you would have been guilty of murder and that all of you thereby committed an offence punishable under Section 307, of the Indian Penal Code, read with Section 34 of the Indian Penal Code, and within my cognizance.

Thirdly.—That you accused 1 to 3 on the same day at the same time and place and in the course of the same transaction did, in furtherance of the common intention of all of you, attempt to murder prosecution witness Bellachi, you the third accused stabbing and causing grievous hurt to her with such intention and knowledge and under such circumstances that if by that stabbing you had caused the death of the said Bellachi you would have been guilty of murder and that all of you thereby committed an offence punishable under Section 307 of the Indian Penal Code, read with Section 34, I.P.C., and within my cognizance.

Fourthly.—That you accused 1 to 3 in the same day at the same time and place and in the course of the same transaction and in furtherance of your common intention of destroying the dwelling house of the said Kunhiraman Nayar and thus causing him damage,

set fire to the said house and hereby committed an offence punishable under Section 436, read with Section 34 of the Indian Penal Code, and within my cognizance.

And I hereby direct that you accused 1 to 3 be tried before me on the said charges.

Dated this 24th day of November 1952.

(Signed) P. T. RAMAN NAIR,
Sessions Judge.

Plea of the accused.

Plea of the accused— 10

1. "Not guilty."
2. "Not guilty."
3. "Not guilty."

P.W. 1.

(25—11—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of first witness for prosecution.

Name—Sri Ambu Nayar. Father's name—Raman. Village—Panathady. Taluk—Kasaragod. Caste—Nayar. Calling—Agriculturist. Religion—Hinduism. Age—75 years. 20

Solemnly affirmed in accordance with provisions of Act X of 1873 on the 25th day of November 1952, by Sri B. M. Shetty, translator, District Court, South Kanara.

I live in Kollengal in Panathadi village on a land I have taken on lease from some Syrian Christian. The deceased is my son. He and his sister Bellachi and her daughter Parvathi were living together in a hut they built on a land, the deceased had taken on lease from the Nileshwar Raja. The land is 5 acres in extent and is in Chennakad in Panathadi about 1½ miles from my house through the forest. The land abuts on the Panathadi-Hosdrug road and lies to the south of the road. It was in Kumbhom before last (i.e., February-March 1951) that my son obtained the land from the Raja on an oral marupattam agreement. In Kumbhom last, about 3 months before the occurrence, we built the house and my son, daughter and her daughter moved into it from my house and began living there. Before that we cleared the forest and put up nearly 1,000 props for planting pepper vine. We also planted 30

about 60 plantain trees and planted tapioca over an extent of about $\frac{3}{4}$ acre or 1 acre. We also reclaimed about one mura seed area of land and sowed paddy there in Medam last (i.e., April-May 1952). We also put up a fence along the southern and western boundaries and a portion of the northern boundary alongside the road. South of the land is the forest belonging to the Raja of which the land previously formed part. In accordance with the agreement my son paid the assessment on the land (*Nikithi* porappad) to the jenmi for two years—rent was payable only after the land began yielding. The Raja s kariasthan for our village is one Kelu Nair and it is to him that we paid the assessment.

The deceased was stabbed and killed early in the morning of Tuesday the 7th of Edavam last (20—5—1952). For the three months previously my son had been living on the land and cultivating it without any objection or obstruction from any quarter. t about 10 a.m. on Monday the 6th Edavam when I went to my on's house I found the three accused and about 30 others on the nd. They were weeding our tapioca crop and dismantling our half complete cowshed and building a hut. My son was in the house. Because the accused and their men were in large numbers we were afraid to protest—my son told me that when he protested accused 1 had threatened him and asked him to keep quiet. I sent my son to report the matter to kariasthan Kelu Nair who lives more than 2 miles away. My son came back in the afternoon saying that Kelu Nair had assured him that he would report the matter to the Police and see that everything was all right. By the evening the accused and their men completed their hut and before night fall they brought food, cooking utensils, cots and other household articles from their house nearby and put them in the hut. They also brought a gas light which they lit at nightfall. Their women folk did not come with them. That night I did not go to my house. After food myself, my son, the deceased, my younger son Ambu and my daughter and her daughter slept in the house. Ambu and I used to come to the deceased's land and work there but we were staying in my house though occasionally we used to sleep in the deceased's house.

Next morning before day break I woke up on hearing the bus for Panathadi go along the road. At day break accused 1 came and stood in front of our house which faces north and called out to my son "Raman Nair, Raman Nair". The deceased's name was Kunhiraman but he is also called Raman Nair. Then accused 1 asked all of us to get out of the house. We refused to accused 1 then said that he would see to it that we got out. So saying he

turned to his brothers accused 2 and 3 who were there and asked them to tie up cadjan torches. There was another person there whom I was unable to make out. But he disappeared and I did not see him after that. Then the three accused set fire to the thatch (which was of cadjan and grass) of the house on the eastern and southern sides. The thatch caught fire—the house was of matted bamboo and wooden posts—and thereupon all of us got out of the house through the front door and went and stood under a tree a little distance north east of the house. While the house was burning, when the roof fell down the deceased and my daughter followed by myself went up to it with a view to see if anything could be salvaged. Thereupon accused 1 asked the deceased why he had come back and asked him to go away. The deceased replied that he would not go away even if he was killed. Thereupon accused 1 stabbed the deceased with a knife about half a cubit long which he was carrying. Accused 1 always goes about with a knife. The blow was aimed at the deceased's chest. The deceased warded off of the blow with his hand and ran northwards. Accused 1 pursued him. The deceased tripped and fell down face downwards. Thereupon accused 1 bent over him and stabbed him in the back once or twice. My daughter Bellachi ran towards him, crying out to accused 1 not to kill the deceased and I followed her. Accused 3 pursued my daughter and stabbed her five or six times from behind with a knife. Accused 2 likewise stabbed me from behind over my right shoulder and then on my left flank. I fell down unconscious. After he stabbed the deceased I did not see accused 1 there. He ran away somewhere. Some time later I regained consciousness on somebody giving me water. I lost consciousness again and when next I regained consciousness I was being taken to hospital in a bus. On the way the Police questioned me. Soon after that I again lost consciousness and regained it properly only in the hospital next morning. In between in the night during an interval when I was conscious some one who I was told was a Magistrate came and questioned me and I told him what had happened. Exhibit P-1 is the statement the Magistrate recorded from me but now, on it being read over to me I find that he has made one mistake. What I told him was that the entire occurrence took place at cock crow (කුකුළන් හඬන වේලාවේ) but in Exhibit P-1 it is made to appear as if the arson took place at night and the stabbing in the morning. I was not fully conscious and do not remember if the Magistrate read over Exhibit P-1 to me or took my thumb-impression to it.

I was an inpatient in the hospital for 25 days.

Cross-examination:—There is no document to evidence our lease from the Raja. It was an oral agreement to lease. The deceased went and saw the Raja and obtained the land on lea A marupattam document was to be executed later but we were allowed to take possession forthwith. Kariasthan Kelu Nair and another person came and measured the land and pointed out the portion given to us. The shanbhogue was not with them but he came some days later and inspected the land. I was not present when Kariasthan Kelu Nair measured the land and pointed it out to my son. Nor when the shanbhogue came and measured out the land some days later. The Raja owns extensive forest land in the neighbourhood and has many tenants. It is not true that there was the basement of an old hut on the land taken by son. It was never occupied before. Before we entered on the land it was forest and no one had occupied it. I am 75 years old. I came to the locality only about 25 years ago and since then there was no occupation before ours. I cannot say whether there was anybody in occupation before 25 years. The entire land was covered with forest when we got the land. We have cleared almost the whole
21 5 acres excepting a very small portion. When we cleared the forest we found a dry well in it. I do not know when or by whom it was dug. The well has no parapet. There is a spring in the land west of ours. It is not in our land. There is a thodu leading from the spring but it does not enter our land. We were not using the water from this spring. We did not raise ginger in the land.

My son and daughter were living in the house for three months and their food was being cooked there They had the necessary household utensils such as mud pots, etc. There were a grinding stone, Koduval, Cherava (grater), tumblers, etc., These articles were in the house when it was burn down. I do not know the survey number or the particulars of the land. Just east of the land is land in the possession of driver Ananda. West is the land in the hands of a Syrian Christian, Mathai, son of Kunhannu. South is forest belonging to the Raja. There is no tenant there. I have heard that that south east of driver Ananda's holding is a holding in the possession of a Moplah woman. I have not actually gone there and seen that holding.

When I saw the three accused and their men on the land on
4 Monday morning I knew they were trespassing on the land with a view to drive us out. At no time before that had the accused or anybody else laid claim to the land.

I know accused 1 for the past five years. Before this occurrence there was no ill-feeling between us. I asked accused 1 why he had trespassed on the land. He asked me not to speak a word. In fact as soon as I got there I asked my son what all this was about and it was he who questioned accused 1. Then accused 1 said that we should not speak a word. The deceased was married to the daughter of one Perunthatta Koran Nair who was living in his own house on the northern side of the road within sight of the deceased's house. The deceased fell out with his wife about two months before moving into his house and his wife was not staying with him. Neither was he going to her house. They were married in the Vrishchikam or Dhanu more than a year before my son moved into the house. The deceased had no other wife living at the time. The deceased's wife was living in her house with her brother Madhava and uncle Krishna Nair who was not permanently residing there. We raised a hue and cry when the house was set on fire. But no one came. Accused 1 must have seen us go and stand underneath the tree when our house was set on fire. Neither he nor the other accused made any attempt to attack us there. We stood dazed under the tree it did not occur to us to leave the place and go to my house. When the deceased went to the burning house to save what could be saved Bellachi and I followed him in order to help him. I do not know if Parvathi and Ambu also came. They must have, but I did not notice them. Accused 3 followed Bellachi as she ran towards the deceased and accused 1 and stabbed her from behind. They were not face to face. Accused 2 did not stab me from front but from the rear. There was only one room in my son's house which was burnt down. It was a big room. I did not go home that night because it was late and not because I anticipated trouble. While the accused and their men were working in a portion of the land my two sons were working on the portion we had reclaimed for paddy cultivation. I did not join in the work. After reaching there at about 10 a.m. I did not go anywhere else till the next morning. It was soon after I actually heard the cock crow that first accused came to our house and asked us to get out. The entire occurence, i.e., the setting fire to the house and the attack on the deceased, myself, Bellachi took place within a *naligai*. Our house was still burning when we were stabbed. The accused had hung the gas light to a post planted between our house and the house constructed by them. That house was about 6 or 7 paces from ours. The gas light was still burning and by its light and also by the light of the burning house I was able to see the entire occurrence clearly. I fell on the bare ground.

So did my daughter Bellachi. So far as I remember no one moved us from there. When I was given water I was still lying on the ground where I had fallen down.

I was not fully conscious when the Magistrate questioned me. I could not speak in continuous sentences but only bit by bit. So far as I am aware I only spoke the truth.

It is false to say that the land was in the possession of the accused, that they constructed the house that was burnt down and were in occupation of it and that we trespassed and set fire to the house. It is false to say that we went to the place accompanied by Kariasthan Kelu Nair and many others in order to drive out the accused or that the Raja had directed Kelu Nair to drive out the accused and instal us in the holding. It is false to say that we went there armed, that there was a clash between our party and accused 2 and 3 and that it was in the course of such a clash that myself and the deceased and Bellachi sustained injuries. It is false to say that a few days before the occurrence we trespassed on the land in the absence of the accused and occupied the burnt down house where they had stored samans. It is not true to say that thereafter the accused had put up the shed nearby and that on the day of the occurrence accused 2 and 3 were in occupation of it with their womenfolk. I am not aware of accused 1 having complained to any one of our preparation to trespass. It is false to say that we attacked the accused's mother. There were none of the accused's womenfolk at the time of the occurrence and I do not know the accused's mother. It is false to say that accused 1 was not there at all at the time of the occurrence. It is our house that was set fire to—it is false to say that the house put up by the accused was first set on fire. Our belongings were few—only a few earthern pots and pans and wooden utensils, a little rice, some brass tumblers and a few clothes. We had no valuable belongings. After I fell down I heard noises of the house put up by the accused being pulled down. At the time the Magistrate examined me I did not know that that house also had been set on fire. I only told the Magistrate that I heard it being pulled down—not that I saw it burnt. It is false to say that in the night Kelu Nair and his men including myself and the deceased pulled down the house put up by the accused while accused 2 and 3 and their people were in it and set fire to the materials and that this fire caught on to the other house into which we had trespassed and burned it down. It is not true that thereupon accused 2 and 3 and their people withdrew to their old house and that when they came back in the morning with their women to take their belongings we (Kelu Nair's party) attacked

them with knives, sticks, etc., and that it was then that the clash occurred in which we sustained injuries. We were only five, myself, the deceased, Bellachi, Ambu and Parvati. Ambu and Parvati must have run-away, only myself, Bellachi and the deceased sustained injuries. We did nothing in return. We could do nothing.

I was always wearing a leather belt over my mundu. I do not take it off when I go to bed. It is not true that I had a knife in my belt when I went to bed that night.

Re-examination.—The present residents of the deceased's wife's house are herself, her elder brother Madhavan and his elder sister At that time Madhavan had sustained some injuries to both eyes and both eyes were bandaged—he had been treated in the Mangalore Hospital. He was not therefore going out of his house.

(Signed and left thumb-impression of) Ambu Nayar.

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
25—11—1952 *Sessions Judge.*

(True copy)

P.W. 2.

(25—11—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of second witness for prosecution.

Name—Srimathi Bellachi. Father's name—Ambu Nayar. Village—Panathady. Taluk—Kasaragod. Caste—Nayar. Calling—Agriculturist. Religion—Hinduism. Age—32 years.

Solemnly affirmed in accordance with provisions of Act X of 1873 on the 25th day of November 1952, by Sri B. M. Shetty, translator, District Court, South Kanara.

I am the daughter of P.W. 1. The deceased was my younger brother. Two years ago the deceased got some land on lease from the Nileshwar Raja. It was in the locality known as Chennakad in Malakkal in Panathadi village. We cleared the forest and reclaimed the land in Kumbhom this year (February-March 1952) put up a thatched house there. The deceased and myself and my daughter Parvathi moved into that house and were living there. P.W. 1 and my brother Ambu used to come there and sometimes stay there

for the night. We had planted about 1,000 props for pepper vines, above 60 plantain trees and about 2,000 tapioca sticks. We had sown some portions with paddy before Vishu.

I know the three accused who are brothers. They live near the Malekkal church about half a mile from our house.

Soon after sunrise on Monday the 6th of Edavam this year the three accused along with about 30 others entered on our land and began hoeing our tapioca plot. Some of them dismantled a half built cattle shed we had put up near our house and with the aid of the materials stored by us began building a hut in its place. The deceased who was working near our paddy land went and asked them what they were about and accused 1 asked him to shut up. A little later P.W. 1 came. He asked the deceased to go and report the matter to Kariasthan Kelu Nair. The deceased went and returned soon after and told P.W. 1 something. By evening the accused and their men completed the construction of their hut. Then they moved household articles like mats, cots, etc., into the hut. After night fall we took our food and slept in our house. My father and Ambu did not return home that night but stayed with us. The accused hung up a gas light outside their house. After midnight I heard a bus pass that way. Some time later accused 1 came and stood outside our house and called the deceased by name and asked us all to get out of the house. We refused to. Accused 1 then said he would see us out of the house. He called out to accused 2 and 3 who were with him to tie up cadjan torches and then the three of them set fire to the thatch of the house. All of us ran out of the house and went and stood underneath a tree a little distance north east. Then the roof of the house burnt out and fell down. The deceased then went towards the house saying that he would try to save what could be saved of our belongings. Myself and P.W. 1 followed him. Accused 1 asked the deceased why he had come back. Some words passed between them and accused 1 stabbed the deceased with a knife. The deceased warded off the blow which was aimed at his chest. Whether the blow actually fell on his chest or not I could not see. Then the deceased ran north-west. He tripped and fell down face downwards and accused 1 who was persuing him stabbed him in the back how many times I cannot say. Myself and P.W. 1 ran to the spot crying out to accused 1 not to kill the deceased. Then accused 3 stabbed me from behind on my head, hands, arms and flank while accused 2 stabbed P.W. 1 from behind. I fell down. Then I heard the accused speak between themselves that the house

put up by them should also be burnt. I also heard noises of the house being burnt. Then I lost consciousness. Later some one gave me some water. Even before I fell down I saw the deceased lying motionless like dead on the ground and on seeing this accused 1 ran away. After a long time P.W. 1 and I were taken in a bus to the Hosdrug Hospital. Half way the Police stopped the bus and the Sub-Inspector questioned us. We reached the hospital after nightfall. I was an inpatient in the hospital for 20 days. Even now I have not fully recovered from the effect of my injuries and am unable to attend to my normal work.

(Signed and left thumb-impression of) Bellachi.

Taken down by me in open Court and interpreted to the witness and acknowledged by her to be correct.

(Signed) P. T. RAMAN NAYAR,
25—11—1952. *Sessions Judge.*

Sworn, 26—11—1952.

Cross-examination.—P.W. 1 and my brother Ambu live in P.W. 1's house in Kollengal about 1½ miles from the house where the deceased and I were living but they used to come often and stay in our house sometimes, whenever we asked them to.

When the accused and their men came and trespassed on Monday morning the deceased and Ambu were levelling the portion adjoining our paddy field for extending the paddy cultivation. I do not remember whether, when P.W. 1 came, the deceased was sitting inside the house—I might have said in the lower Court that he was. (Exhibit D-1). Even after the deceased went to report the matter to Kariasthan Kelu Nair Ambu and a coolie were working near the paddy field. I cannot say for how long they worked or when they stopped work. So far as I know the accused and their men did not interfere with Ambu or the coolie while they were at their work. I was attending to my work inside the house. It was very late in the night when accused 1 came to the house and called us out. I do not know if it was 10 or 17 naligais after dark although I might have said so in the lower Court. Accused 1 came a little after I heard the bus go along the road. I heard only accused 1 order us to get out of the bus. I did not hear accused 2 or 3 say anything. When we got out of the house I saw a knife in accused 1's hands. I saw none in the hands of accused 2 or 3. All of us woke up on accused ordering us out of the house. Accused 1 asked us to get out of the house and also said that we should not remain on the land. When I saw accused 1 with the knife I was a little frightened but I did not then think

that he would use the knife. We say the house being set on fire and on seeing this all of us came out. Even when the deceased turned back and ran northwards on accused 1 stabbing him, myself and P.W. 1 followed him. I did not notice what Ambu and Parvati did—whether they also ran behind us. P.W. 1 was behind me. I was about 4 marus behind the deceased when the deceased fell down and accused 1 began stabbing him. Immediately after that I was stabbed. I do not remember if I told the Sub-Inspector that on accused 1 stabbing him, the deceased ran and fell down at a distance when accused 1 again stabbed him in the back and that on seeing this I cried and ran after him when I was stabbed by accused 3. I cannot say from where accused 2 and 3 got their knives or what sort of knives they used. When we were standing under the tree none of the accused asked us to go away or interfered with us in any manner. When the house was set on fire we raised a hue and cry. When they set fire to the house only the three accused were there. Their supporters were standing near the house they had built and did not come to our house. We ran out of the house and took shelter under the tree we then had no intention of going to P.W. 1's house. When the roof fell in the deceased ran to the house saying "Let me see if I can save anything". P.W. 1 and I ran to do likewise. I do not know if Ambu and Parvathi came. While the house was burning the three accused remained there. When the deceased ran to the house accused 1 was carrying a knife. Even then I did not see any weapon with accused 2 and 3. I saw that they had knives only when they stabbed me and P.W. 1. I lost consciousness a little while after I fell down on being stabbed. I saw accused 2 and 3 and others pull down the house they had constructed and set fire to the materials. Accused 1 was not there. He ran away soon after killing the deceased. He ran towards the road but where he went I did not see. I regained consciousness only after a long time when the sun was right over head. I was there lying down on the bare ground then I had fallen on being stabbed.

I did not notice any injuries on any of the accused. I do not now if accused 2 or 3 sustained any injuries. I did not see either them lying on the ground. I remember being carried to the bus but do not remember my having been placed in the bus. I do not remember seeing my father also being carried to the bus. I do not remember if accused 2 and 3 were in the same bus. I remember being questioned by a Police officer while in the bus but do not

remember what I told him. In the hospital some officers questioned me—whether it was a Police officer or a Magistrate. I do not know.

I know the mother of the accused by sight. There is no ill-feeling between us. I did not see her at all at the scene of the occurrence. While we were chased and stabbed the accused's men were standing in and about the house built by them. They did nothing. They made no attempt to threaten or frighten us. I did not hear accused 3 say anything when he stabbed me. The accused said nothing when they stabbed us.

The deceased told me that he had got the land from the Kaia. I do not know personally about that except that we cleared the land and went to live there. We cleared the land and planted props, tapioca, etc., with the aid of coolies. They were not coolies known to me, my brother used to engage whomsover he would find mostly cherumas. I cannot say that I have traversed the entire extent of the property. We did not raise any ginger there. There are no cashew trees in the land—we have not planted any. We first planted tapioca in the land only in Meenom and Medam this year. In Kumbhom this year the forest was cleared and burnt and the house built. In Meenom tapioca was planted.

When we ran out of the house on its being set on fire we took nothing with us. Our household utensils were all in the house. The deceased also ran out barehanded. None of us had any Koduval or knife or other implement with us.

I know Kariasthan Kelu Nair only by reputation. I have not seen him. He did not come to the scene that day either by himself or with people. No one came from the neighbourhood on hearing our cries or seeing the fire.

I cannot furnish the boundaries of the land.

Re-examination.—To the north of the land is the road. South is unoccupied forest. East is the pepper garden of Driver Ananda and west in the marupattam land of Mathai, son of Joseph.

(Left thumb-impression of) Bellachi.

Taken down by me in open Court and interpreted to the witness and acknowledged by her to be correct.

Signed) P. T. RAMAN NAYAR,
Sessions Judge.

26-11-1952.

(True copy)

P.W. 3.

(26—11—1952)

IN THE COURT OF SESSION, SOUTH KANARA

Sessions Case No. 36 of 1952.

Deposition of third witness for prosecution.

Name—Kumari Parvathi. Father's name—Raman Nayar. Village—Panathady. Taluk—Kasaragod. Caste—Nayar. Calling—Cultivation. Religion—Hinduism. Age—13 years.

Solemnly affirmed in accordance with provisions of Act X of 1873 on the 26th day of November 1952, by Sri B. M. Shetty, Translator, District Court, South Kanara.

I am the daughter of P.W. 2. Myself P.W. 2 and the deceased were living in a hut we had built in Chennakkat on a land the deceased had got from the Nileshwar Thambiran. The land is just south of the road going to Panathady.

The deceased and my mother and grandfather were stabbed on Monday the 6th of Edavam this year. To-day is Wednesday. But the date I do not know.

The day previous to the day the deceased and the others were stabbed the three accused came to our land in the morning accompanied by a number of men. They began working on the land, having our tapioca plot and constructing a hut. They were doing other things also. At about noon P.W. 1 came. He questioned the deceased and sent him to report the matter to Kelu Nair of Panathadi. The deceased returned after some time. After nightfall we took our food and went to sleep inside the house. P.W. 1 and my uncle Ambu also slept there that night. The accused and their people were in and about the hut they had constructed. A long time after, past midnight my mother woke me up. Then I heard accused 1 calling out to the deceased and asking all of us to vacate the house. The deceased refused to do so. Then accused 1 asked accused 2 and 3 who were there to set fire to the house. Then the three of them set fire to the thatch of the house. All of us ran out of the house and went and stood under a tree some distance to the north east. The roof burnt down and fell in. Then the deceased went towards the house saying "Let us see if we can save anything." P.W. 2 followed him. Accused 1 cried out to the deceased "Did I not tell you to leave this land. Why have you come back." The deceased replied that he would not leave the land. Accused 1 stabbed the deceased with a knife he was carrying The stab was aimed at his chest but he warded it off with his hand and whether it struck him or not I cannot say. The deceased

turned and ran north-westwards. Then he tripped and fell down face downwards. Accused 1 ran after him and stabbed him in the back while he was lying on the ground. P.W. 2 ran to the spot crying out "Do not kill!" Then accused 3 stabbed her from the rear many times. P.W. 1 was also running the same direction. Accused 2 stabbed him in the rear. P.W. 1 and P.W. 2 fell down. All this time myself and my uncle Ambu were standing under the tree. On seeing P.Ws. 1 and 2 fell down stabbed we ran to the road and stood under a tree there. Then accused 2 and 3 and others pulled down the hut they had constructed and set fire to the materials. Accused 1 was not there. Then we ran to P.W. 1's house and told my grandmother what had happened. My grandmother sent Ambu to go and report the matter to Karnasthan Kelu Nair.

Two days later I was questioned by the Police

Cross-examined.—I was frightened when the house was set on fire. We ran and stood under the tree to see what else the accused would do. We had gone a little distance westwards when the deceased was stabbed. The deceased was unarmed. It is false to say that he had a knife with him. Or that P.W. 1 or P.W. 2 or any of us had any knife or other weapons. We were all bare-handed. Only my grandmother and maternal aunt (P.W. 2's sister) were in Kollengal house that night. I know the house of the deceased's wife. It is across the road from our house in Chennakat which was burnt down. No one came from that house on hearing our cries. We did not go to the deceased's wife's house and tell them what happened since we were anxious to go to our house and tell our grandmother. We waited on the road for some time to see what the accused were doing with the house they had built. It was only a long time after we reached home and told our grandmother that the day broke. I do not know why P.W. 1 and Ambu stayed that night in our Chennakat house. After going home I did not return to the scene of offence to see what had happened to P.Ws. 1 and 2 and the deceased. Ambu returned home in the morning itself after informing Karnasthan Kelu Nair. Still no one went from our house to see what had happened to the injured persons.

Re-examined.—Nil.

(Left thumb-impression of) Parvathi.

Taken down by me in open Court and interpreted to the witness and acknowledged by her to be correct:

(Signed) P. T. RAMAN NAYAR,
26—11—1952. *Sessions Judge.*

(True copy)

P.W. 4.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of fourth witness for prosecution.

Name—Sri P. Kunhi Anandan Nair. Father's name—Nil. Village—Hosdrug. Taluk—Kasaragod. Caste—Nair. Calling—Sub-Magistrate. Religion—Hinduism. Age—43 years.

Date, 26—11—1952.

Solemnly affirmed in accordance with the provisions of Act X of 1873, by Sri B. M. Shetty, translator, District Court, South Kanara.

I am the Sub-Magistrate, Hosdrug. At about midnight on the night of 20—5—1952, I went to the Hosdrug Hospital to record the dying declaration of P.W. 1 on intimation received from the Medical Officer. I found P.W. 1 in the hospital with some injuries. He was conscious and in a fit condition to depose although weak and obviously in distress. He was unable to speak freely or continuously and was giving his answers bit by bit after pauses. But he was able to understand the questions put to him and give proper replies. I questioned him and recorded from him the statement. Exhibit P-1. He deposed in Malayalam which was very colloquial. I did not record Exhibit P-1 in his very words but in proper Malayalam. I read over Exhibit P-1 to him and took his thumb-impression to it after he admitted it to be correct.

Cross-examined.—P.W. 1 was following Exhibit P-1 when I read it over to him and I was satisfied that it was a correct record of what he had said. I could follow his colloquial Malayalam without difficulty. I know Kanarese also. I have worked for long periods in the Malayalam areas of South Kanara and am quite familiar with the Malayalam spoken there. I belong to Tellicherry.

Re-examined.—Nil.

(Signed) P. Kunhi Anandan Nair,
26—11—1952.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
26—11—1952. *Sessions Judge.*

(True copy)

P. W. 5.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of fifth witness for prosecution.

Name—Sri Ambu Nayar. Father's name—Ambu Nair. Village—Panathadi. Taluk—Kasaragod. Caste—Nayar. Calling—Agriculturist. Religion—Hinduism. Age—20 years. 10

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 26th November 1952 by Sri B. M. Shetty, translator.

I am the younger brother of the deceased. The deceased and myself and P.W. 1 and P.W. 2 were all living together in P.W. 1's house in Kollengal. Last Kumbham the deceased and P.Ws. 2 and 3 moved to a hut we constructed in Chinnakad on land which the deceased got on lease from the Nileshwar Thambiran, two years ago. We cleared and burnt the forest and raised paddy, tapioca and plantains in it and also planted about 1,000 props for pepper vines.

The deceased and P.Ws. 1 and 2 were stabbed on the night of Monday the 6th Edavam. That morning myself, the deceased and 2 or 3 coolies were levelling the land near our paddy plot. A little before conji time the three accused along with about 30 other Christians entered the land and began hoeing a tapioca plot. They dismantled a half complete cow shed we had put up and built a house there. P.W. 1 came there before noon. When the accused 30 and their men came the deceased went and spoke to them. But I remained where I was and continued my work. When P.W. 1 came the deceased was in the house and I also came to the house stopping my work. P.W. 1 sent the deceased to report the matter to Kariasthan Kelu Nair. At noon the deceased returned saying that Kelu Nair had asked us to keep quiet and do nothing on our own and that he would inform the Police and see that matters were set right. Kelu Nair particularly wanted us to take no action. That night we did not go home. The deceased asked me and

P.W. 1 to stay behind saying that our help might be necessary if the Police came. So all of us slept in that house for the night.

At about cock crow accused 1 came and stood outside the house and calling to the deceased by name asked us all to clear out of the house. The deceased declined to. Accused 1 then said that he would take steps to turn us out and turning to accused 2 and 3 who were standing by asked them to tie up cadjan torches. Then the three of them set fire to the thatch of the house. All of us got out of the house and went and stood underneath a tree. After a while the deceased returned to the house to see whether anything could be saved. P.W. 2 and P.W. 1 followed him and P.W. 3 and myself also went a little way. Accused 1 asked the deceased why he had come back in spite of being asked to go away. The deceased said that the land was his and that he would not go. Thereupon accused 1 drew a knife from his waist and stabbed the deceased. I do not know if the blow fell on the deceased's chest or his arm but he turned and ran northwards crying out that he had been stabbed. Accused 1 pursued him, knife in hand. The deceased tripped and fell down face downwards. Thereupon accused 1 stabbed him in the back. I saw him stab only once. P.W. 2 ran towards them crying out "Do not kill!" Thereupon accused 3 stabbed her from the rear with a knife many times, about ten times. I do not know from where he got the knife. I saw it in his hands only when he stabbed P.W. 2. P.W. 1 also was running towards the deceased. Accused 2 stabbed him from the rear with a knife. P.Ws. 1 and 2 fell down. P.W. 3 and myself ran to the road raising a hue and cry. We stood under a tree there crying out aloud. No one came. Accused 2 and 3 and others pulled down the house they had constructed and burnt the materials. P.W. 3 and I then went to our house in Kollengal and woke up my mother and told her what had happened. Then I went to Panathadi and told Kariasthan Kelu Nair. He asked me to go to the Patel saying that he himself would follow. I went home. When I started to go to the Patel my mother would not let me go. She was threatening to commit suicide and so I stayed behind. About four naligais after sunrise Kelu Nair came there and asked whether the injured persons had been brought home. We said that they had not and thereupon Kelu Nair left the place. I wanted to go to the scene of offence but my mother would not let me go. In the evening on hearing that the Patel had come to the scene she allowed me to go there and I went. The Patel was there. The deceased was lying

dead. The Patel put the injured persons in a bus and sent them to Hosdrug. I went with them. On the way the bus was stopped and the Sub-Inspector questioned me.

Cross-examined.—I know the land where the occurrence took place for about ten years. We raised tapioca there for the first time this year. Four years ago there was some Poonam (Kumri) cultivation on the land. I do not know who did that cultivation. When the deceased took the land it was covered with the jungle. We cleared the jungle and reclaimed the land. We engaged Cheruma coolies from Kodenchel about a mile away. I know some of them. I was not present when the Police held the inquest over the deceased's body. The Police stopped our bus at Vadiyancha and questioned me and P.Ws. 1 and 2.

When we went to bed on Monday night we did not suspect that there would be trouble. We did not take any koduval or knife or any other implement when we came out of the house. All of us were barehanded. It was accused 1 that ordered us to go out. Accused 2 and 3 said nothing. Soon after stabbing the deceased, accused 1 ran away westwards and I did not see him thereafter. By evening the accused and their people had completed their hut. We did not think of going again to Kariasthan Kelu Nair. It is not true to say Kariasthan Kelu Nair accompanied by us and many Chirumas went to the plot on Monday night armed with knives, etc., to drive the accused out of the land. It is not true that we attacked accused 2, 3 and their mother with knives and that accused 2 and 3 stabbed us in self-defence. Accused 2 and 3 and their mother were also in the bus in which we went to Hosdrug Their mother was not there when the occurrence took place. I saw her there only when I went there on Tuesday evening after the Patel came. When we were in the bus I noticed some slight injuries on accused 2 and 3. I do not know how they sustained them. We did nothing.

I cannot read. I have not seen any of the records in respect of this property.

The deceased had no box. He used to keep his papers, etc., in a hollow bamboo piece.

Our Kollengal house is a better house with mud walls. We have boxes there. The deceased was not keeping any papers there excepting those relating to that property.

I know the accused's mother. It is false to say that we beat her. The tree where we went and stood is about 10 or 15 marus from the burning house. It is north-east of the house. From this

tree to the road is about 10 marus. I was dazed through fear and that is why P.W. 3 and myself stood for some time under the tree on the road. It was still before day-break. We did not wait for the day to break. It was only after I went to Kelu Nair to report the matter that the day broke.

Re-examined.—Nil.

(Signed in Malayalam) Ambu Nair

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
26—11—1952. *Sessions Judge.*

(True copy)

P.W. 6.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of sixth witness for prosecution.

Name—Dr. M. Keshava Pai. Father's name—M. Narayana Pai. Village—Hosdrug. Taluk—Kasaragod. Caste—Hindu (Brahmin). Calling—Medical profession. Religion—Hinduism. Age—32 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 26th day of November 1952, by Sri B. M. Shetty, translator.

I am Honorary Medical Officer, Local Fund Dispensary, Hosdrug. On 20—5—1952, I was in-charge of the hospital in the absence of the Medical Officer on leave. At the request of the Station-house Officer, Hosdrug, I accompanied him that day to Panathadi to hold a post-mortem examination and examine injured persons. We went by a taxi. We left Hosdrug at about dusk. On the way we met a bus in which the injured persons were being brought to Hosdrug. The Sub-Inspector stopped the bus and I had to look at the injured persons and gave them first aid. Then I went in the bus with the injured persons to the hospital where I examined and treated all of them.

On P.W. 1, I found the injured described in my certificate, Exhibit P-2. He had four injuries :—

(1) An incised wound 1 inch long $\frac{1}{4}$ inch wide, 1 inch deep vertical on the back at the medial border of the right scapula at the level of the spine of the scapula.

(2) An incised wound 3 inches long ½ inch wide and ¼ inch deep placed transversely on the back of the middle of left upper arm.

(3) A horizontal stab injury 1 inch long ¼ inch broad penetrating into the chest cavity and allowing entry and exit of air in the posterior axillary line 4 inches below the interior angle of the scapula on the left side. The lung also must have been injured because the man was spitting blood.

(4) An incised wound ¾ inch by ¼ inch by ¼ inch on the right thumb on the index finger side.

Injury No. 3 was grievous because it endangered life. It was an injury sufficient in the ordinary course of nature to cause death. P.W. 1's condition was very bad and I had grave doubts whether he would survive. In fact I am surprised that he was survived. I sent intimation to the Magistrate to come and record his dying declaration and was present when the Magistrate, P.W. 4 came and recorded his statement.

P.W. 1 told me that he sustained the injuries at dawn on 20—5—1952, by violence with a knife. They could have been caused at the time and in the manner alleged.

On P.W. 2, I found the injuries described in my certificate, Exhibit P-3. She had ten injuries, all incised wounds :—

(1) An incised wound 1½ inches by ¼ inch by ½ inch deep on the outer aspect of left upper arm.

(2) An incised wound 2 inches by ½ inch by ½ inch deep on the left palm.

(3) An incised wound 1 inch by ¼ inch by ¼ inch on back of left wrist.

(4) An incised wound between the ring and little finger ½ inch long by ¼ inch deep.

(5) An incised wound 1 inch by ½ inch by ½ inch deep at the back on right scapula.

(6) An oblique incised wound 1¼ inch by ½ inch by ½ inch deep on the back 2 inches below the left scapula.

(7) An incised wound 3 inches by ½ inch by ¼ inch deep on the top of the head.

(8) An incised wound 1¼ inch by ¼ inch by ¼ inch one inch to the left of No. 7.

(9) Transverse incised wound 1¼ inch by ¼ inch by ¼ inch deep over the forehead 2 inches above right eye-brow.

(10) Incised wound at the side of the head about 5 inches above the right ear 1¼ inch by ½ inch by ½ inch deep transverse

P.W. 2 told me that the injuries were caused by violence with a knife at about dawn on 20—5—1952. They could have been caused at the time and in the manner alleged.

Each injury was by itself simple. But about injury No. 2, I am doubtful whether P.W. 2 will recover the use of her little finger and in that sense the injury might be grievous. When I examined her, her condition was not grave. I do not know how much shock she had and cannot say whether cumulatively the injuries were such as to endanger life. Such injuries could by their cumulative effect produce sufficient shock and haemorrhage to cause death I would not be surprised if I was told that she fell down unconscious on sustaining these injuries. That is quite likely

On accused 2 I found the injuries described in my certificate, Exhibit P-4. He had four injuries :—

(1) An incised wound 1 inch long 1/8 inch by ¼ inch deep on the dorsal aspect of the ulnar border of the left wrist at the lower end of the ulna.

(2) An oblique incised wound 1 inch long by ¼ inch by ½ inch deep cutting the second phalanx of the index finger on the left hand on the thumb-side

(3) An incised wound ½ inch by 1/8 inch deep at the root of the left thumb towards the index finger side.

(4) An abrasion nearly 7 inches long oblique from above downwards from left to right across the sternum

Injury No. 2 which had cut the bone of the finger was grievous The rest were simple. Accused 2 told me that the injuries were caused by violence with a knife and a bill-hook at 8 a.m. on 20th May 1952. They could have been caused at the time and in the manner alleged

On accused 3, I found the injuries described in my certificate Exhibit P-5 He had four injuries :—

(1) An oblique incised wound 2 inches long by 1/8 inch by 1/8 inch on the medial aspect of the right thigh 4 inches above the knee from outside inwards.

(2) An incised wound ¾ inch long just above left knee cap 1/8 inch by 1/8 inch deep

(3) A contusion ¾ inch by 1 inch at the right temple.

(4) A contusion 1½ inches by 1 inch on the medial aspect of lower end of left ulna.

The injuries were all simple. Accused 3 told me that the injuries were caused at 8 a.m. on 20—5—1952 by violence with a stick and a knife. They could have been caused at the time alleged. The incised wounds could have been caused by a knife, and the contusion on the left forearm by a stick. The contusion on the temple was of *limited* area and was probably caused by the knob of a stick.

Yeli, mother of accused 2 and 3 was also among the persons brought to the hospital. She was complaining of pain as a result of stick blows but I could find no injuries whatsoever on her. Exhibit P-6 is the certificate I issued.

The injuries on accused 2 could have been self-inflicted but injury No. 2 in Exhibit P-4 was a clear cut wound cutting into the bone and it is not likely that it was self-inflicted. The abrasion (No. 4) might have been caused by contact with any rough object

The incised injuries on accused 3, Nos. 1 and 2 in Exhibit P-5 were little more than scratches and could have been self-inflicted. From their direction, location and nature it looks as if they were self-inflicted. The contusions could have been caused by forcible contact with any hard smooth object.

P.W. 1 spoke to me in Malayalam. As far as I remember what he told me was that he sustained the injuries at "Pularurnakalam" പുലരൂർനകലം.

I could find no signs of injury whatsoever on the mother of the accused and came to the conclusion that she was malingering because after I had diverted her attention by asking the compounder to talk to her I pressed the portions where she complained of pain and would not let me touch previously and she did not appear to know.

(Signed) M. Kesnava Rai.

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

26—11—1952.

Sworn, 27—11—1952.

Cross-examined.—I have taken into consideration the age of the injured person (P.W. 1) in expressing the opinion that injury No. 3 in Exhibit P-2 was such as to endanger life. That is only one of the elements considered by me.

I examined P.W. 1 at about 1-15 a.m. on 21—5—1952. Even before that his dying declaration was recorded. As soon as I reached the hospital I sent a requisition to the Sub-Magistrate for the purpose.

With regard to the injuries on P.W. 2 (Exhibit P-3) I cannot assert that the cumulative effect was such as to cause death. In fact they did not cause death. All I said in my chief-examination was that such injuries can cause death and I adhere to that view.

Injuries Nos. 1, 3 and 4 in Exhibit P-3 (P.W. 2) could have been self-inflicted.

Injuries Nos. 2 and 4 in Exhibit P-2 (P.W. 1) could have been self-inflicted but with regard to No. 2 having regard to its location I think that would be very difficult and I would only say that it is not impossible.

In Exhibit P-6, I have noted that Yeli had no injuries but have not noted my opinion that she was malingering. I have noted that she was complaining of pain.

Re-examined:—Injury No. 3 in Exhibit P-2, since it was a penetrating injury piercing a vital organ like the lung might have caused death even in the case of a strong young man.

(Signed) M. Keshava Pai.

Taken down by me in open Court and interpreted to the witness and acknowledged by her to be correct.

(Signed) P. T. RAMAN NAYAR.
27—11—1952 *Sessions Judge.*

(True copy

P.W. 7.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of seventh witness for prosecution.

Name—Dr. T. E. Unni. Father's name—C. M. P. Namboodri. Village and taluk—Kasaragod. Caste—Hindu. Calling—Civil Assistant Surgeon. Religion—Hinduism. Age—39 years.

Date; 27—11—1952.

Solemnly affirmed in accordance with the provisions of Act X of 1873 by Sri B. M. Shetty, translator, District Court, South Kanara.

I am the Medical Officer, Government Hospital, Kasaragod. On 21—5—1952 on a requisition from the Station-house Officer Hosdrug, I went to the Hosdrug hospital and did an autopsy on the body of the deceased, Kunhiraman Nair. I found the injuries and other conditions noted in my certificate, Exhibit P-7.

I found the following injuries :—

1. An incised wound on the right side of the back 1½ inches by ½ inch penetrating the right pleural cavity in the sixth space starting 1½ inches to the right of the said line. Internally I found that this injury had cut the lower lobe of the right lung and caused two wounds, both 1 inch by ½ inch by ½ inch near each other.

2. An incised wound on outer side of right thigh at level of knee vertically 2½ inches by ¾ inch by 5 inches deep. This was on the fleshy part and had not cut the bone or any big blood vessel.

3. An incised wound ¾ inch by ½ inch by bone deep on palmar and outer aspect of second piece of right index finger.

Injuries Nos. 2 and 3 were simple. Death was in my opinion caused by shock and haemorrhage and possible sudden pneumo-thorax (rushing of air into the chest cavity) as a result of injury No. 1. Injury No. 1 was a grievous injury sufficient in the ordinary course of nature to cause death.

The stomach was empty.

Decomposition had set in. I first saw the body at 12-50 p.m. on 21—5—1952. Death must have occurred more than 24 hours before this.

Injury No. 1 is quite capable of causing instantaneous death especially if there is pneumo-thorax. If there was no great pneumo-thorax the effect of which is a variable element it is possible that the man lived for about half an hour. In the absence of prompt medical attention the injury in my view is a necessarily fatal injury. The three injuries must have been caused by a sharp-pointed weapon such as a pen-knife. To cause No. 2, its blade must have been at least 5 inches long.

The deceased was a well-nourished man of about 25.

Cross-examined.—The body was over 24 hours old when I saw it, because decomposition had set in. It is true that I stated in the cross-examination in the lower Court as in Exhibit D-3 namely that death must have taken place from 12 to 24 hours before I saw the dead body? But that was a mistake and corrected myself in re-examination and said that the period must be 24 hours or more.

Re-examination.—Decomposition usually does not set in before 24 hours. Exhibit P-8 is what I said in re-examination in the lower Court.

(Signed) T. E. Unny,
27—11—1952.

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
27—11—1952. *Sessions Judge.*

(True copy)

P.W. 8.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of eighth witness for prosecution.

Name—Sri Raman Nambiyar. Uncle's name—Krishna Nambiyar Village—Panathadi. Taluk—Kasaragod. Caste—Nambiyar. Calling—Cultivation. Religion—Hinduism. Age—41 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of November 1952, by Sri B. M. Shetty, translator, District Court, South Kanara.

I belong to Padi near Kasaragod. I am a coolie by profession. In Kumbhom this year I went to Panathadi for work and stayed there for four months working first for one Madhavan Nair and then for Driver Anandan. Madhavan Nair's house is in Malakkal and is across the road on the northern side of the land where the occurrence took place. I was staying in that house. Madhavan Nair is the deceased's wife's brother. Driver Anandan's pepper garden is east of the scene of occurrence.

I know the scene of offence very well. When I went to the village in Kumbhom this year the deceased and his sister P.W. 2 and his brother P.W. 5 and niece P.W. 3 were living on that land in a hut. They raised plantains and paddy in the land and also planted murku props(?) for pepper vine and grew some betel vine.

It was on Monday, the 6th of Edavam, that the occurrence took place. On that day myself and one or two other coolies were working in Driver Ananda's land. At about 10 a.m. the three accused and about 30 other Christians came and entered on the deceased's land and began hoeing the tapioca plot and putting up a hut. I saw them from Driver Ananda's land when I was working. About 5 p.m. I stopped work and went to Madhavan Nair

house where I was staying. After food I went to bed. Early in the morning at about cock crow I heard cries from the direction of the deceased's house and came out of the house. Then I saw that the deceased's house was on fire. There was also a gas light burning near by. I went and stood on the road opposite the deceased's land and had a look. The place is on the northern slope of a hill, i.e., the hill slopes downwards to the north. I went and stood on the southern bank of the road to have a proper view. I saw the deceased and P.Ws. 1, 2, 3 and 5, alone standing under a tree a little distance to the north-east of the blazing house. After some time the roof burnt out and fell in. Then the deceased and P.Ws. 1 and 2 ran towards the burning house. The three accused were standing near the house. I did not notice any one else there. When the deceased went to the house accused 1 stabbed him with a knife. The deceased ran north-westwards. He stumbled and fell down and as he was lying on the ground accused 1 stabbed him again. P.W. 2 and P.W. 1 ran to the spot raising a cry. Accused 3 stabbed P.W. 2 and accused 2 stabbed P.W. 1. Both of them fell down. I got frightened and went back to Madhavan Nair's house. After day break I went to Panathadi and reported the matter to Kariasthan Kelu Nair. He asked me to report to the Patel. I did not know where the Patel lived and went on towards Avvankavu making inquiries. Before I reached Avvankavu I was told that the Patel had gone out somewhere and was not in his house. I therefore returned to the scene of offence. It was afternoon by then. The Patel was there. The deceased was lying dead. P.Ws. 1 and 2 were also lying there with injuries. P.Ws. 1 and 2 were carried to a bus and taken to Hosdrug hospital. Accused 2 and 3 and their mother also came in the bus. P.W. 5 and myself also went. On the way the Police stopped the bus and questioned the injured persons. The next day the Police questioned me at Hosdrug.

Cross-examined.—My village Padi is more than 20 miles from the scene of offence. For the past two or three years I have been going to Panathadi side for work from time to time and have been working off and on for Madhavan Nair. The deceased's wife is Madhavan Nair's sister and is living in his house. I know T. Koman Nair the husband of another sister of Madhavan. On the night of the occurrence this Koman Nair was not in Madhavan Nair's house. I was as usual sleeping in the verandah of the house. I am sure that Koman Nair was not in the house that night. Madhavan Nair was in the house. I did not call out to Madhavan when I ran out to see what the matter was. But on my return

I told him what had happened. Madhavan was sleeping along with me in the verandah. When I got up he was lying there and appeared to be still asleep. The deceased's wife's name I do not know. When I came back from the scene I did not tell her what had happened. She was inside the house and the door was shut. I told only Madhavan and do not know whether the deceased's wife got the information. No one asked me to go and report to Kelu Nair. Because he was the Kariasthan of the Thamburan and an important person I went and told him. From where I stood, to the blazing house will be about 30 marus. I cannot say whether there was any moonlight at the time—there was the light of the burning house and the gas light and I did not notice whether there was any moonlight. From Kelu Nair's house I returned to Madhavan's house and had my coniee before going in search of the Patel. Then Madhavan alone was in the house. The deceased's wife and her sister were not there. When I returned to the scene in the afternoon I did not see the deceased's wife there.

I did not see accused 1 after he had stabbed the deceased. I did not see where he went after that. I saw accused 2 and 3 and others pull down the hut constructed by them and set fire to it. I do not remember whether I told the Police that I saw all the three accused do this. After my return to the scene in the afternoon I saw accused 2 and 3 only when they came to the bus. We carried P.Ws. 1 and 2 into the bus. Then accused 2 and 3 came and got into the bus. I did not see from where they came.—I know Kariasthan Kelu Nair for the past two or three years.

It is not true to say that I was not there at all, that I did not see anything and that I am giving false evidence at the instance of Kelu Nair.

I did not see any one else on the road watching the occurrence. The Patel asked me to go with the injured persons to the hospital and I went. I was in the Hosdrug hopital for two or three days. No one asked me to stay.

Re-examined.—At that time Madhavan was ill and was not coming out. One of his eyes was bandaged. His other eye was all right. He was unable to do any work.

(Left thumb-impression of) Raman Nambiyar

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed). P. T. RAMAN NAYAR.

27—11—1952. *Sessions Jud*

(True copy)

P.W. 9.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of ninth witness for prosecution.

Name—Sri K. Srinivasa. Father's name—K. Ramachandraya. Village—Hosdrug. Taluk—Kasaragod. Caste—Arya Maharastra. Calling—Constable No. 555. Religion—Hinduism. Age—30 years.

Date, 27—11—1952.

Solemnly affirmed in accordance with the provisions of Act X of 1873 by Sri B. M. Shetty, translator, District Court, South Kanara. 10

I am a constable attached to the Hosdrug Police station. I was present when the Sub-Inspector held an inquest over the body of the deceased at Panathadi on 20—5—1952. The body was handed over to me at 8 a.m. on 21—5—1952 for being taken to the Hosdrug hospital. I took it there by noon and was present there until P.W. 1 came and did the autopsy.

Cross-examined.—Nil.

(Signed) K. Srinivasa.

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct. 20

(Signed) P. T. RAMAN NAYAR,
27—11—1952. *Sessions Judge*

(True copy)

P.W. 10

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of tenth witness for prosecution.

Name—Sri Ambu. Father's name—Vanjan Ambu. Village—Panathadi. Taluk—Kasaragod. Caste—Ganiga. Calling—Talayari. Religion—Hinduism. Age—59 years. 30

Date, 27—11—1952.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of November 1952, by Sri B. M. Shetty, translator.

I am talayari of Panathadi and live in the locality called Mundottu in that village.

On 20—5—1952 as I was out on collection duty and was passing along the road by the side of the scene of offence I heard of the occurrence and went to scene of offence. It was about 9 a.m. then.

In the land south of the road belonging to the Nileshwar Raja and in the occupation of the deceased I found five persons lying on the ground with injuries. They were the deceased who was already dead, P.Ws. 1, 2 and accused 2 and 3. The accused's mother and another woman were also there. The thatched house in the land in which the deceased had been living had been burnt to the ground. I gave some water to P.Ws. 1 and 2. They were lying unconscious and were not able to talk. Accused 2 and 3 were conscious and they did not appear to be seriously injured. Then I went to the Patel who lives in Ayyankavu about eight miles to report the matter. I met him at Echikolu about six miles from the scene. I reported the matter to him and he recorded my statement. Exhibit P-9 is that statement. He read it over to me and took my signature to it after I said it was all right. Then the Patel sent me to his house to fetch his report back. I went to his house and came back with the book. The Patel prepared the reports and sent it from Echikolu itself, through the other talayari.

I know the land in which the offence took place for the past 30 years. It lies just south of the main road and I often go that way. The jenmi is the Nileshwar Raja. It was part of a big forest. In Kumbhom last the deceased allowed the forest, constructed a hut and took up residence there along with his sister P.W. 2. They planted tapioca and plantains and also murikku for props for pepper vine.

About 25 years back one Perunthatta Koran Nair, father-in-law of the deceased cleared the forest in a portion of this land and dug a well there. But since he could find no water he built a house on the northern side of the road and was living there. He abandoned the land where the occurrence took place and it was soon overgrown with jungle. After that no one attempted to clear it or raise crops there until the deceased did so. Koran Nair died about ten years back.

The Police questioned me on 21—5—1952 only so

Cross-examined.—My house is about three miles west of the scene of offence. On that day I was going to Panathur in Panathadi village about ten miles east of my house to make kist collections. The kistbandi for my village is in December, January, February and March. But there were arrears even on the 20th May. Five or six persons in Panathur were in arrears in respect of miscellaneous kist in respect of kumri cultivation. On that day I could not go to Panathur. But subsequently I went and collected the arrears. I cannot say when. I prepared a note of the arrears

from what the Patel told me. He did not give me an arrear list. I pass by the land along the road very often about once or twice a week but it was only on that day that I actually entered into the land. I have spoken to the occupation, etc., of the land from what I saw when passing by it. The land west of this land is in the occupation of a Christian. I do not know if there is a thodu for bringing water from a spring in the western land to this land. There was no cultivation of any kind in any portion of this land four years ago. It was all forest. The Police did not ask me about the possession of the land and I did not tell them. After sending his report the Patel went to the scene. He went in a lorry. I was hired and I went home. I do not know in whose lorry the Patel went. Accused 1 was not in that lorry.

Re-examined.—Nil.

(Signature in Malayalam character of) Ambu

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR.
Sessions Juage.

27—11—1952.

(True copy)

P.W. 11.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of 11 *witness for prosecution.*

Name—Sri Kunhiraman Nambiyar. Father's name—Kudoth Kunhambu Nair. Village—Panathady. Taluk—Kasaragod. Caste—Nair. Calling—Patel. Religion—Hinduism. Age—29 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of November 1952, by Sri B. M. Shetty, translator.

I am acting Patel of Panathadi for the past one year. I am living in Ayvankavu about eight miles from the scene of offence in the house of the permanent Patel.

On 20—5—1952, at about noon when I was in Echikalu about six miles from the scene, P.W. 10 came to me and reported that one dead person and four injured persons were lying there. I recorded the statement Exhibit P-9 from him read it over to him, and took his signature to it after he admitted it to be correct. Then I sent P.W. 10 home to fetch my report book and after he brought the book I prepared reports in the printed forms and sent,

reports to the Police and Sub-Magistrate through my other talayari Krishna, Exhibit P-9. I sent to the Police with Exhibit P-10 my covering report. Just then a lorry came and I went in it to the scene of offence. I found the deceased lying dead on the ground and near him P.Ws. 1 and 2 lying with serious injuries. They appeared to be conscious but were unable to speak at all. A little away from them accused 2 and 3 and two women were sitting. Accused 2 and 3 had slight injuries. The bus for Hosdrug came at about 5 p.m. I had P.Ws. 1 and 2 carried to the bus. Accused 2 and 3 and their mother also got into the bus. Since P.Ws. 1 and 2 were in a bad condition, I sent P.Ws. 5 and 8 with them. I waited near the corpse till the Police arrived at about 10 p.m. At the scene I found a house burnt to the ground and what appeared to be the materials of another also burnt. I know accused 1 for the past two or three years. His house is in Malekkal about 2 or 3 furlongs from the scene of offence. I had occasion to go to his house when the Police came in February 1952, in connection with a miscmei case.

For the past one or two years I know the land where the offence took place. I have often seen it while passing along the road to Panathadi. About 2 or 3 months before the occurrence the deceased built a hut and took up residence there. Until then it was covered with jungle. The deceased planted murikku sprops, tapioca, etc., in the land and was living in the hut till the time of the occurrence.

Cross-examined.—It was on 20-5-1952, that I first actually entered into the land. Of the deceased's occupation of the land I have spoken from what I saw from the road while passing that way. I have often gone that way, sometimes walking, sometimes by bus. The hut is very near the road margin only about 20 yards from it and is clearly visible from the road. The land slopes upwards south of the road and the hut is on a higher level than the road.

East of the scene of offence is Driver Ananda's pepper garden. The two plots adjoin each other. This hut can be seen from Ananda's plot—there is no hump of the hill between them. The hump is east of Ananda's land. I do not know whether that hump has any particular name. I do not know in what right the deceased was in occupation and have seen none of his records.

The land west of the land where the occurrence took place is in the occupation of one K. Mathai. Accused did not present any complaint to me in February last or at any time to the effect that Mathai's cattle were damaging the tapioca crop gram by him

(accused 1) in the occurrence plot. I do not recollect his having made any oral complaint either to that effect. Neither did Math or his father give me any complaint against accused 1.

I was a panchayatdar at the inquest held by the Sub-Inspector that day over the deceased's body. Witness Driver Ananda was not present at the inquest. At that time Driver Ananda was a bus driver in the Bhanu Motors. The Ananda Halepaka mentioned in the inquest report cannot be witness Ananda (? but is some other person.

Next to the burnt down house of the deceased there was the basement of another house. That appeared to be very new, only a day or two old, and it was still wet and soft. 10

I went to the scene from Echikolu in a lorry. I do not remember whose. The lorry happened to come that way and I stopped it and got into it. I do not remember who the driver was. Accused 1 was not in the lorry. I do not remember whether the Police questioned me about the possession of the land or whether I told them anything about it.

Re-examined—Nil.

(Signed) Kunhiraman Nambiar.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
27—11—1952. *Sessions Judge.*

(True copy)

P.W. 12.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of 12*th witness for prosecution.*

Name—Sri P. K. K. Nambiyar. Father's name—V. V. Govindan Nayanar. Village—Hosdrug. Taluk—Kasargod. Caste —Nair. Calling—Clerk. Religion—Hinduism. Age—43 years. 30

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of November 1952, by Sri B. M. Shetty, translator, District Court, South Kanara.

I am a clerk of the Sub-Magistrate's Court, Hosdrug. Two knives and other articles were received in Court in this case from the Station-house Officer, Hosdrug, for being sent to the Chemical Examiner. They were sent to the Chemical Examiner. Exhibit

P-11 is the office copy of the forwarding letter. Exhibit P-12 is the report of the Chemical Examiner and Exhibit P-13 of the Serologist.

Cross-examined.—Nil.

(Signed) P. K. K. Nambiar,
27—11—1952. *Clerk.*

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
27—11—1952. *Sessions Judge.*

(True copy)

P.W. 13.

IN THE COURT OF SESSION, SOUTH KANARA.

In Sessions Case No. 36 *of* 1952

Deposition of 13*th witness for prosecution.*

Name—Sri Laxman Nayak. Father's name—Krishna Nayak. Village—Hosdrug. Taluk—Kasaragod. Caste—Naik. Calling—Driver. Religion—Hinduism. Age—40 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of November 1952, by Sri B. M. Shetty, translator, District Court, South Kanara.

I belong to Kasaragod. From February to September 1952, I was working as a bus-driver in Hosdrug in the Bhanu Motor Service operating from Hosdrug to Panathady. My bus leaves Panathadi at 7 a.m. and reaches Hosdrug at 9-30 a.m. It leaves Hosdrug at 12-30 p.m. and reaches Panathadi at 2 p.m. It starts again from Panathadi at 2-30 p.m. and reaches Hosdrug at 4-30 p.m. It leaves Hosdrug at 5 p.m. and reaches Panathadi at 7 p.m.

I know the scene of offence. It is in Malikkal just by the side of the road and I was passing by it four times a day. I know Driver Ananda who was employed as a bus driver in the same Hosdrug Panathadi line. He has a pepper garden adjoining the land where the occurrence took place.

The deceased and one or two women were living in a hut on the occurrence land ever since I began working on that line in February 1952. I have seen the deceased working on the land while passing that way. The deceased had planted plantain trees and Murukku props in the land.

I know accused 1 since I began going that way. He used to travel on my bus.

The occurrence took place on 20—5—1952. On the previous day when I was going from Panathadi to Hosdrug in my bus at about 2-30 p.m. accused 1 stopped the bus when I reached the scene of occurrence. He gave me a letter asking me to deliver it to Keshava Kamath Store Manager of Kotacheri. Exhibit P-14 is that letter. I recognise it from the printed letter head. It was not put in a cover. It was just folded and given to me. That day it was late, about 5-30 p.m., when I reached Kotacheri since the bus gave trouble on the way. As soon as I got there I went to get to the bus repaired and forgot to deliver the letter. It was 2 a.m. by the time the bus was ready and I started back to Panathadi I reached Panathadi at 4-30 a.m. When I went past the scene of offence I saw a petromax light burning in front of a new hut there. Previously there was only one hut there—that in which the deceased was living. Now just by its side, there was a new hut which was built on the 19th. When I passed that way on the 19th afternoon I saw it being built—and it was from there that accused 1 came and stopped my bus.

On 20—5—1952, I left Panathadi at 7 a.m. I reached the scene of offence in ten minutes and stopped the bus there since the passengers noticed some persons lying on the occurrence land. I saw both the huts burnt down. I saw six persons on the land, three lying down and three sitting. The passengers got down and had a look but I did not get down. They came and said that one person, namely the deceased, was dead and that his father and sister were seriously injured and about to die. Then we proceeded to Hosdrug. At Kotacherri I met Driver Ananda and I handed over the letter, Exhibit P-14 to him for being delivered to Keshava Kamath. The Sub-Inspector questioned me two or three days later.

Cross-examined.—There were passengers in the bus when accused 1 handed over the letter, Exhibit P-14 to me, but whether they saw him do so I do not know. I did not open the letter. After handing over that letter to Driver Ananda I saw accused 1 in the lower Court. I did tell the Sub-Inspector that accused 1 came from the land where he was putting up a new house and gave me the letter—not merely that accused 1 came from the occurrence land. The Police did not ask me about the possession of the land, and I did not tell them. After leaving Hosdrug at 2 a.m. on 20th May 1952, my bus passed the scene of offence a little after 4 a.m. on its way to Panathadi. I do not remember if I told the Police that I saw a petromax light burning there then or merely said that there was some light burning there. I did not give any water to

the injured persons lying on the land and I did not tell the Police that I did. The Sub-Inspector questioned me at the Hosdrug Police station. Even then I knew that the deceased was in occupation of the land. I cannot read either English or Malayalam.

Re-examined:—Nil.

I (Signed) K. Laxmana Naik.

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

21—11—1952.

(True copy)

P.W. 14.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of 14th witness for prosecution

Name—Sri Ananda. Father's name—Chikanna Village—Hosdrug. Taluk—Kasaragod. Caste—Sherigara. Calling—Driver. Religion—Hinduism. Age—44 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of November 1952 by Sri R. M. Shetty, translator, District Court, South Kanara.

I belong to Hosdrug. Until two months ago I was driving a bus of the C.K.N.S. Co., on the Hosdrug-Panathadi line. Now I am a driver under Ravi Varma Raja of Nileshwar.

I hold a land on marupattom under the Nileshwar Raja in Mallakal in Panathadi village. It is by the side of the bus road just next to the occurrence land. I have been in occupation of the land for the last 24 years and have raised pepper vine there. The occurrence plot was in the possession of the deceased Kunniraman Nair. Three months before the occurrence the deceased cleared the jungle and built a hut there and began living in it. Their women and his father and his brother and the deceased were working on the land. They planted plantains and props for pepper vine.

I know P.W. 13. On the day of the occurrence at about 9 a.m. I met him at the Kotacherri bus stand and he gave me a letter, Exhibit P-14, for being delivered to Keshava Kamath of the stores. He said that it was from accused 1. I handed over the letter to Keshava Kamath.

At the time of the occurrence, P.W. 8 was working as a coolie in my garden next to the occurrence plot.

Four days after the occurrence the Sub-Inspector questioned me.

Cross-examined.—Exhibit P-14 was given to me folded up. I did not open it before delivering it to Keshava Kamath. I cannot read either Malayalam or English. After delivering Exhibit P-14 to Keshava Kamath I saw it only in the lower Court. I have no lease deed to evidence the marupattam of my plot—only receipts for the premium of Rs. 120 and subsequent payments of Nikudhi(?) porappad. The land given to me was pointed out by Kariyasthan Kelu Nair and was measured out by the shanbhogue. I was given 8½ acres. The shanbhogue did not give me any plan. I know the occurrence land for about a year. For about a year the deceased and his people have been working on it. A moplah called Andhukka, son of Mammad has a plot east of mine. Immediately west of my land is the deceased's where the offence took place. There is a little pepper cultivation in Andukka's land on the eastern side. South-east of my plot is a plot in the hands of a moplah woman, the mother of Andukka.

When handing over Exhibit P-14 to me, P.W. 13 told me that there had been trouble in Malikkal in the deceased's land and that the deceased had been killed and others injured. I had not gone on that line for the past eight days. When I delivered the letter to Keshava Kamath I did not tell him about the trouble. P.W. 13 had told me that accused 1 was the person responsible for the trouble.

Re-examined.—Nil.

(Signed) P. Ananda.

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR

27—11—1952. *Sessions Judge.*

(True copy)

IN THE COURT OF SESSION: SOUTH KANARA

Sessions Case No. 36 of 1952

Deposition of 15th witness for prosecution.

Name—Sri Keshava Kamath. Father's name—Laxmana Kamath. Village and taluk—Hosdrug. Caste—Brahmin (G.S.) Calling—Manager of Hosdrug Stores, Hosdrug. Religion—Hinduism. Age—51 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 28th day of November 1952, by Sri B. N. Shetty, translator, District Court, South Kanara.

I belong to Hosdrug. I was the Manager of the S.K.C.C.W Stores, Kottacheri. I know accused 1 since four years. He was a salesman in the Rajapura Retail Co-operative Stores in Panathadi to which issues are made from my depot. Accused 1 used to come to my depot in connection with the dealings we had with his stores.

I know accused 1's signature. He used to sign my issue registers for issues taken delivery of by him. Exhibit P-15 is my issue register in which accused 1's signature appears at pages 4 11 and 15, Exhibits P-15 (a), (b) and (c).

Exhibit P-14 was handed over to me by P.W. 14 on 20th May 1952 at about 10 a.m. He did not tell me from whom it was and what it was about. He merely gave it to me and went away. On 22—5—1952, I went to Cannanore and returned on 23—5—1952. On my return the Sub-Inspector questioned me and I handed over Exhibit P-14 to him.

The letter head in Exhibit P-14 is of accused 1 and the signature in it is also his. The letter is in Malayalam and I got it read through a man in my depot.

Exhibit P-16 is a document executed in favour of accused 1 by some moplahs. I have attested that document and also signed it as an identifying witness before the Sub-Registrar.

Cross-examined.—I cannot read either Malayalam or English. I have not read Exhibit P-16. But I heard it being read over by the Sub-Registrar. I can speak and understand Malayalam. I do not know which are the properties comprised in Exhibit P-16. For the past 2 or 3 years I hold a land in Kallar in Panathadi village on marupattam from the Nileshwara Raja and have raised pepper there. I wanted Murikku props for the purpose. I had been to Panathadi about a year ago to secure the props. I know P.W. 14

and also his pepper garden. I went to the land just west of P.W. 14's garden for the purpose of getting murikku props. I wanted to see if Murikku plants were available there. I did not get any there. There was a small hut in the land there. Two Christian women were living in that hut. I do not know accused 1's mother. I saw tapioca, turmeric and ginger cultivation in the land. I asked the women in the hut whether any Murikku plants were available. They replied that the men folk were out and that they could say nothing. So I came away. I did not see accused 1 there at all.

The land where I went for the Murikku and in which I saw two Travancore Christian women is just south of the road and adjoins P.W. 14's pepper garden to the west.

Before getting Exhibit P-14, I had received one or two letters from accused 1 in connection with the stores. Exhibit P-14 is the first personal letter I got from him. I had not seen his letter head before.

Accused 1 has signed Exhibit P-15, several times in my presence.

I got Exhibit P-14 read out to me on the 20th afternoon. I was not able to understand the drift of it or what it was all about.

The entries in Exhibit P-15 are in English. In page 18 of Exhibit P-15 there is one signature Exhibit D-4. The signature is not properly written and I cannot say whether it is of accused 1 or not. Only P.T.K. is decipherable there. So also in the case of Exhibit D-4-(a) at page 49.

There is a clerk in my depot who knows both English and Malayalam. He posts Exhibit P-15 and obtains the signature in it from the persons to whom issues are made.

(Signed) Keshava Kamath.

Re-examined.—Nil.

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

Signed) P. T. RAMAN NAYAR,
Sessions Judge.

28—11—1952.

(True copy)

P.W. 16.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of 16*th witness for prosecution.*

Name—Sri K. Chandu Nayar. Father's name—M. Chandu Nayar. Village—Balla. Taluk—Hosdrug sub-taluk. Caste—Nair. Calling—Clerk, Hosdrug Depot, Hosdrug. Religion—Hinduism. Age—42 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 28th day of November 1952, by Sri B. M. Shetty, translator, District Court, South Kanara.

I am a clerk under P.W. 15 in the S.K.C.C.W. Depot at Kotacherri. I know accused 1 for 2 or 3 years. He was a salesman in the Rajapuram Retail Stores in Panathadi and used to come frequently to our depot for taking ration issues. Exhibit P-15 is the issue register of my depot and it is posted by me. In the last column of that register the signature of the person taking delivery is obtained. Accused 1 has signed it on many occasions on taking delivery. His signature appears on page 4 [Exhibit P-15 (a), dated 18—5—1950], page 5 [dated 22—5—1950, Exhibit P-15 (d)], page 11 [dated 22—6—1950—Exhibit P-15 (b)] page 15 [dated 8—7—1950—Exhibit P-15 (c)] page 31 [dated 19th September 1950—Exhibit P-15 (e)], page 33 [dated 30th September 1950—Exhibit P-15 (f)] and various other pages. I know his signature very well. I know accused 1's handwriting also. I have seen some letters from him in Malavalam written to P.W. 15 in connection with the store affairs. He can write only a little English—sufficient for writing addresses, etc.—and I have seen his English handwriting also.

The handwriting in Exhibit P-14 looks like accused 1's. So also the signature. They appear to be his. About the address written in English I cannot be so definite.

The Police questioned me.

Cross-examined.—Exhibit D-4 (b) at page 16 of Exhibit P-15, Exhibit D-4 at page 18, Exhibit D-4 (c) at page 20, Exhibit D-4 (a) at page 49 and Exhibit D-4 (d) at page 56 are also signatures of accused 1. Most of the signatures in Exhibit P-15 were made in my presence but I cannot swear that all of them were. I cannot now say which of them were signed before me and which not.

Re-examined.—Nil.

(Signed) K. Chandu Nair.

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
28—11—1952. *Sessions Judge.*

(True copy)

P.W. 17.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of 17th witness for prosecution.

Name—Sri Kunhambu Nayar. Father's name—Sri E. V. Kunhiraman Nayar. Village—Belur. Taluk—Kasaragod. Caste—Nayar. Calling—Potail of Belur I. Religion—Hinduism. Age—37 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 28th day of November 1952, by Sri B. M. Shetty, translator, District Court, South Kanara.

I am the Patel of Belur I near Hosdrug. I know P.W. 15. On 23—5—1952, when I was passing by his house in Hosdrug the Sub-Inspector of Police who was there called me in. P.W. 15 produced the letter Exhibit P-14 and the Sub-Inspector gave it to me and asked me to read it in Malayalam. I read over Exhibit P-14 to them.

Cross-examined.—My house is 12 miles from Hosdrug. I had been to Hosdrug on business that day and was going from a friend's house near P.W. 15's when the Sub-Inspector called me in. I hold about 40 acres of land on kuzhikanom from the Nileshwar Raja.

Re-examined.—Nil.

(Signed) Kunhambu Nair.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR.
28—11—1952. *Sessions Judge.*

True copy)

Deposition of 18th witness for prosecution.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of 18th witness for prosecution.

Name—Sri Kelu Nayar. Father's name—Shankaran Nayar. Village—Panathady. Taluk—Kasaragod. Caste—Nayar. Calling —Kariasthan. Religion—Hinduism. Age—38 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 28th day of November 1952, by Sri B. M. Shetty,
10 translator, District Court, South Kanara.

I live in Panathadi and am the local kariasthan of the Nileshwar Thekke Kovilagam. The Raja has extensive lands, mostly forest in Panathadi and I manage them.

I belong to Nileshwar. I went to Panathadi only four years ago. I know the deceased for the past three years. I know the occurrence land. It was forest land belonging to the Raja. Two years ago the deceased came to me and said that he wanted this land on marupattam. I asked him to go and see the senior Raja, Rama Varma Thamburan. He is still the senior Raja. One day
20 when I was in Nileshwar the deceased came and saw the Raja and asked him for the land and the Raja directed me to measure out and give the land to the deceased on marupattam. Accordingly in Medam 1126 (April-May 1951) I measured out the land and handed over possession to the deceased. The extent is about 5 acres and the boundaries are—

West—The land of K. Joseph.

North—Hosdrug-Panathadi road.

East—Driver Ananda s (P.W. 14's) land.

South—Raja's forest.

30 The lands on all sides belong to the Raja. Joseph and P.W. 14 have only marupattam rights in them.

The land was granted to the deceased on the terms that he should pay Nikudi purappad at Re. 0-8-0 per acre till the crops began to yield and that after that he should pay rent of 2 out of 10 so far as pepper was concerned and 1/3rd in respect of other produce.

In the first year the deceased did not do any work on the land but paid the Nikudi purappad of Rs. 2-8-0 to me and obtained a receipt. Exhibit P-17 is my receipt book for 1126 and Exhibit P-17 (a) is the counterfoil of the receipt granted by me to him.

Exhibit P-18 is my jama book and Exhibit P-18 (a) is the entry regarding this collection. The deceased paid Nikudhi purappad for 1127 also. Exhibit P-19 is my receipt book for that year and Exhibit P-19 (a) the counterfoil of the receipt issued to him Exhibit P-20 is the jama book for that year and Exhibit P-20 (a the entry in respect of that collection.

In Kumbhom 1127 (February-March 1952) the deceased cleared the forest in the land but up a hut there and began living in it with his sister (P.W 2). father (P.W. 1) and brother (P.W. 5). They planted tapioca, murikku props for pepper, hill paddy and plantains and were in occupation of the plot.

I know accused 1 He lives about three furlongs west of the scene of offence. About six months before the occurrence he approached me and asked for the occurrence land on marupattam. I told him that it had already been granted to the deceased and that he was too late. About 20 days before the occurrence he came and told me that he had obtained an assignment of the leasehold right (marupattam) in the occurrence land from one Andukka and had also seen the Raja about it. He wanted me to put him in possession of the land and said also that that was the Raja's direction. I said that I would look into his document and see which was the land covered by it. He showed me Exhibit P-16 and I went through it. I know the land covered by Exhibit P-16. It is not the occurrence land. It is the land east of P.W. 14's and I told accused 1 so. He appeared to be satisfied and left the place without saying anything. The land covered by Exhibit P-16 was taken by Andukka's father Mammad on marupattam from the Raja. Exhibit P-21 is a registered marupattam deed which I got from the kovilagam records. I do not know Mammad's signature and cannot speak to its execution. Item 1 in Exhibit P-21 is the property assigned under Exhibit P-16. Exhibit P-16 describes the land assigned as having been obtained under Exhibit P-21. There are two items in Exhibit P-21. The first item is in Chennakad and the second is Munduplav just south of item 1 and north-east of driver Ananda's garden. Item 1 alone and not item 2 is comprised in Exhibit P-16.

The boundaries of item 1 in Exhibit P-21 are—

East—The hemp of Punnakannu, Jenm of the Raja.

South—The lessee's wife, Aisamma s Kuzhikanam land and Raja s forest.

West—Raja s forest.

North—Local Fund road.

The boundaries shown in Exhibit P-16 are

East—The hemp of the Raja's hill forest.

South—Aisamma's kuzhikanam and Raja's forest.

West—Raja's forest.

North—Public road.

The boundaries are the same and the land in Exhibit P-16 is identical with item 1 in Exhibit P-21.

Aisamma is Andukka's mother and her kuzhikanom land is not south of the occurrence plot and does not adjoin it at all. It is south-
10 east of P.W. 14's land and there is at least 15 marus of space intervening between it and the occurrence land.

Accused 1 told me that he had obtained Exhibit P-16 in pursuance of an agreement but he did not refer to any other agreement.

Exhibit P-22 is a receipt granted by me on 16—9—1951 to Andukka for Nikadi purappad paid for the land comprised in Exhibit P-21 and other marupattam land in Kanar.

Accused 1 has not paid any Nikudi purappad for any land in Chennakad.

20 For two years (1126 and 1127) accused 1 has been doing kumri cultivation on lands belonging to the kovilagam. These lands were given to him by me after taking rent deeds from him. He has paid rent for these lands and I have passed him receipts.

At about noon on 19—5—1952, the deceased came to my house and complained to me that the three accused and about 30 others had entered on his land and were digging their tapioca plots and preparing to build a hut there. I sent him back saying that I would go to Hosdurg and that the police and that meanwhile he should keep quiet and not engage himself in any quarrel with the
30 accused. I was not able to go to Hosdurg that day. Next morning at about 9 a.m. P.W. 3 came to me and said that the deceased and P.Ws. 1 and 2 had been stabbed by the three accused and that they were lying injured on the land. I asked him to go and inform the Patel at once saying that I would follow. Half an hour later P.W. 3 came and told me that the accused had burnt the deceased's house and stabbed the deceased and P.Ws. 1 and 2. I asked him to go and tell the Patel. He promised to go and inform the Patel about everything. Since he was going I thought there was no hurry for me to go. So I gave instructions to my workmen for the
40 day and went to P.W. 1's house in Kollengal to see if the injured were there. They were not there. So I went to the scene of

offence. P.W. 1's house is 1½ miles from my house and from there to the scene of offence is another 1½ miles. I reached the scene of offence at about 9-30 a.m. I made inquiries of the people on the road and was told that the talayari had come and seen the injured persons. From the road I saw P.Ws. 1 and 2 and the deceased lying on the ground. Accused 2 and 3 were sitting there. On seeing me they got up and afraid that they might do harm I did not actually enter the land. Just then a bus came and I went in it to the Raja's Madam in Karthike in Hosdrug. There I saw the senior Raja's nephew Ravi Varma Raja and told him what had happened. From there we went to Nileshwar and informed the senior Raja. Then I returned to Hosdrug and learned that the Patel's report had arrived and that the Police were going to the spot. I returned to Nileshwar and informed the senior Raja about it. The next day I returned to Panathadi and on 22—5—1952, the Police questioned me there.

Cross-examined.—The senior Raja is against giving land on marupattam to Travancore Christians. He thinks they are troublesome people. The occurrence land was orally leased to the deceased on the undertaking he should in due course execute a marupattam. He had not executed any document till the time of his death. It is quite usual to grant lands orally and to take a marupattam deed only a year or two later. Till then (apart from jenmam right) there is only the Nikudi purappad receipts to evidence the lease. I had no document or plan with me when I measured out the land to the deceased. I took measurements with a survey chain. I cannot now say what the measurements are. The occurrence land is part of R.S. No. 274/1 which is 2,000 acres in extent. I do not know the old survey number of the land. I did not take the village shanbhogue with me to measure the land but the kovilagam surveyor came with me. He took the measurements in my presence. He had the survey plan with him when he made the measurement. But whether he prepared a plan of the plot or not I do not know.

In item 1 of Exhibit P-21 there are no improvements to this day. It is still forest. It is not true to say that it is the occurrence plot. There is a thodu (channel) leading from Joseph's plot to the west to the occurrence plot. It extends up to about 4 or 5 marus with the occurrence plot. It is a disused thodu apparently intended to bring water from the spring in Joseph's plot but, for so long as I know, it has not been in use. I know the plot only for the past five years after going to Panathadi. There is a dry disused well in the western portion of the occurrence plot. It is a bare well

with no parapet. I do not know who dug the thodu or the well. I saw the thodu and the well when I measured the land. P.W. 14 also holds his land on an oral lease. In P.W. 14's plot in the northern portion there is the crest (hump) of a hill sloping southwards. That crest abuts on the road. After I took charge, for the past four years, the occurrence land was for the first time cleared by the deceased. No paddy crop was raised in it before that.

The deceased first paid me Nikudi purappad on the 30th Chingam 1126 (1951) September. He next paid Nikudi purappad on 30th Medam 1127 (May 1952). Exhibit P-17 (a) the receipt for the first payment refers to the fact that the payment was in respect of an oral lease. In Exhibit P-17 there are many countrfoil receipts relating to the lands granted on oral lease. But Exhibit P-17 (a) is the only receipt that mentions an oral lease. That is because it is only in the first year's receipt that I refer to the nature of the lease. In fact Exhibit P-19 (a) does not refer to the oral lease. In Exhibit P-17 (a) the year was first written 1127 by mistake and then corrected to 1126. I first wrote 1127 by a slip of the hand. The next receipt to Exhibit P-17 (a) is Exhibit D-5. That is a receipt granted by me to P.W. 14. There also I first wrote "1127" by mistake and corrected it into "1126." These are the only receipts in which I have made this mistake about the year. The receipts are written and the entries in the jama books are made by me. The entry Exhibit P-20 (a) relating to the payment of purappad for 1127 contains an erasure and an overwriting. I cannot say what was first written there. I must have first entered somebody else's payment by mistake on the wrong page and then erased it and written the correct entry. Both the erased entry and the rewriting are in my handwriting. The headings showing the names, etc., of the tenant on the respective pages in Exhibit P-20 are not in my writing. The jama books are prepared by the Kovilagam writers and issued to the Kariasthan. All entries regarding collections are made by the kariasthans and all such entries in Exhibit P-20 are in my handwriting. The deceased's jama number is 439. The heading in respect of it was also written by the writer and not by me.

The Police questioned me on three occasions. On the first occasion I did not produce Exhibits P-17, P-18 P-19 and P-20, although they were in my possession. I was not asked about them. I was questioned about the possession of the occurrence land. Four days later the Police questioned me again. Then I produced

Exhibits P-17 to P-20. Two days after that they questioned me again. Then I produced the records relating to the adjoining properties.

On the 19th, I was unable to go to Hosdrug and see the Police because I was fully engaged in disbursing wages to coolies and in completing the accounts which the Raja had asked me to prepare without delay in view of the partition in his family.

There is no enmity between me and accused 1. The occurrence land is over 2 miles from my house. I thought it was no use going and questioning accused 1 because it was apparent that he had deliberately and high handedly trespassed on the land after collecting men for the purpose. Although he had claimed the land as his under Exhibit P-16 he seemed satisfied when I told him that it was not covered by his document and I had no reason to think that he would resort to force. 10

There are about 50 Chermas attached to the Raja working under me. After measuring out the land to the deceased I have not actually entered the land. But I have passed that way along the road and seen the deceased and his people in occupation.

After going to the scene on the 20th morning I did not go to the deceased's wife's house near by. I did not notice any injuries on accused 2 or accused 3. It is only after I reached the scene that I heard that the deceased was dead. I first went to P.W. 1's Kottengai house expecting that the injured persons must have been taken there. Even then I was not told of the deceased's death. 2

When I reached the road near the scene I heard that the deceased was dead and I became frightened. The senior Raja asked me to go and find out and report to him whether the Police were taking any action but he asked me to keep aloof and not get involved in the case. He said he had enough troubles on his hands already 30

It is false to say that I was responsible for all the trouble and that it was I who set fire to the house. It is false to say that the occurrence land was in accused 1's possession (in pursuance of an agreement with Andukka) and that he raised paddy, tapioca, turmeric and ginger in it and planted murikku props. It is false to say that accused 1 had built a hut on the land and was in occupation of it. It is not true that accused 2 and 3 were living in the hut and working on the land. The land was never in the possession of the accused. It is false to say that in their absence myself and my men trespassed on the land and installed P.W. 2 and the deceased in the hut. It is false to say that because we trespassed 40

and took possession of the hut, accused 2 and 3 put up a new shed near by or that they and their mother were living in that shed... It is false to say that myself and my men dismantled the shed put up by accused 2 and 3 and set fire to it or that it was from the fire from that shed that the other hut caught fire. I know nothing about the occurrence. It is false to say that in the morning of 20—5—1952 after sunrise there was a clash between my party and accused 2 and 3 and that it was in the course of this clash that the deceased and P.Ws. 1 and 2 suffered injuries

Re-examination.—In Exhibit P-17 I have dated each receipt in English also under my signature and there is no mistake in respect of the English date in Exhibit P-17 (a) and Exhibit D-5. The receipt book is page numbered in print. In the receipts before and after Exhibits P-17 (a) and D-5 the year is correctly shown as 1126 and there is no correction.

Exhibit P-23 is another receipt book for 1127. Nos. 3, 5 and 39 are receipts in respect of lands newly granted on oral lease and they refer to the fact of the oral lease

(Signed) O. Kelu Nair.

Taken down by me in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR

28—11—1952. *Sessions Judge.*

(True copy)

P.W. 19.

IN THE COURT OF SESSION, SOUTH KANARA

Sessions Case No. 36 *of* 1952.

Deposition of the 19*th witness for prosecution.*

Name—Sri H. Madhava Bhat. Father's name—H. Narayan Bhat. Village—Panathady. Taluk—Kasaragod. Caste—Kr Brahmin. Calling—Shanbhogue of Panathadi village. Religion—Hinduism. Age—38 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 28th day of November 1952, by Sri B. M. Shetty, translator.

I am the shanbhogue of Panathadi for the last 15 years. I am the Secretary of the Kallar Co-operative Society. I know accused 1 for the past 2 or 3 years. I know his handwriting and his signature. He has taken a loan from my society executing the

bond Exhibit P-24 and I have seen him write and sign on many occasions. I can read Malayalam. Exhibit P-14 is in accused 1's handwriting and the signature in it is also his.

I know the occurrence land. Exhibit P-25 is a plan prepared by me of the locality as directed by the Police. It is a correct plan. The occurrence plot is marked A in it and is hatched in pencil.

The Sub-Inspector gave me Exhibit P-21 and asked me to locate and mark the land covered by it in the plan. The plot K in the plan is item 1 of Exhibit P-21 and M is item 2. Plot L is the kuzhikanom marupattam land of Aisamma, mother of Andukka. I marked these plots with reference to the boundaries shown in the respective title deeds. I examined the title deeds of the adjoining lands also in locating and marking the plots in the plan. Plot J in the plan is P.W. 14's land. All this has been noted in my index to the plan.

South of plot A is forest land, not occupied. In plot L there is pepper cultivation. Improvement leases are called kuzhikanom.

Usually the registered document is executed by the lessee and that is called kuzhikanom marupattam. The jenmi executes a edurnudi.

I know the occurrence plot marked A in the plan. I pass by it often on way up and down the road. Until about 2 or 3 months before the occurrence it was unoccupied forest. Then the deceased cleared the forest, built a hut and began living in it. He raised tapioca, plantain, etc., and planted murikku props in it. At the time of the occurrence he was living in it.

The Police examined on 22—5—1952.

Cross-examination.—Until I entered on it to prepare the plan I had only seen the occurrence plot from the road and had not entered it. It was on 27—5—1952 that I entered the land and prepared the plan. I had the field measurement book with me when I went to the land. The occurrence plot is part of R.S. No. 274/1, which is over 2,000 acres in extent. When I measured the land and prepared the plan the Sub-Inspector was there. I knew the occurrence had taken place on that land. The Sub-Inspector showed me the various spots and asked me to prepare a plan. I first measured the occurrence plot and then the adjoining plots. R.S. No. 274 of 1935 has been correctly located by me in Exhibit P-25. I now see from Exhibit D-6 a certified copy of the F.M.B. in respect of S. No. 274 that No. 274 of 1935 does not lie where I have marked it in Exhibit P-25. I must have noted the wrong

sub-division number and what I have shown as No. 274 of 1935 must be some other subdivision. There is a subdivision there. Of that I am sure.

I saw no document in respect of Driver Ananda's land.

Aisamma has only one land (plot L) on kuzhikanom marupattam in the locality. S. No. 274 of 1936 is comprised in that marupattam. Because there was pepper cultivation there it was separately subdivided at the time of the re-survey.

I have not calculated the exact extent of any of the plots in Exhibit P-25. But the measurements are noted and the extent can be calculated. There is no crest of the hill between plot J and A. The crest is on the north eastern corner of J. The crest slopes southwards.

From G in plot A in Exhibit P-25 to the road is about three chains. The well B has no parapet wall. There was some stone packing up to ground level but nothing above ground level. West of B there was a small plot of levelled land but no basement of a house. It is only on 27—5—1952 that I entered the land and saw the improvements at close quarters. Before I have only passed by the road and seen the tapioca crops etc. and the hut from a distance. I have also seen the deceased in the land. I cannot say on how many occasions or on what dates I saw the deceased there. I have been the shanbogue of the village for 15 years to my knowledge there has been no cultivation in the occurrence plot until the deceased occupied it.

Re-examination.—Nil.

(Signed) H. Madhava Bhat.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
28—11—1952. *Sessions Judge.*

(True copy)

P.W. 20.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of the 20*th witness for prosecution.*

Name—Sri Anantharaman. Father's name—J. Gopalayya. Village—Byndoor. Taluk—Coondapur. Caste—Kshatriyas. Calling —Sub-Inspector of Police. Religion—Hinduism. Age—31 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 29th day of November 1952 by Sri B. M. Shetty, translator.

In May 1952, I was Sub-Inspector of Police, Hosdrug.

On 20—5—1952 at 5 p.m. I received Exhibits P-9 and P-10. I registered a case (Crime No. 46 of 1952) under Sections 302 and 436, I.P.C., and sent express reports to my superiors. At 6-15 p.m. I left for the scene in a taxi along with the doctor, P.W. 6, the Medical Officer, Dr. Shama Rao being on leave. I also sent a communication to the Kasaragod Doctor (P.W. 7) to come to Hosdrug to conduct post mortem examination since P.W. 6 was not willing to do it. On my way to the scene at about 8 p.m. in Belur village I saw a bus come opposite with the injured person in it. I stopped it. I found P.Ws. 1 and 2, accused 2 and 3 inside the bus with injuries. The accused's mother was also in the bus. She was complaining of pain but she had no injuries. P.W. 5 also was in the bus. P.W. 6 gave first aid to the injured persons. After that I questioned P.Ws. 1, 2 and 5, accused 2 and 3 and the accused's mother. Accused 2 made a complaint which I recorded. On that complaint a case was registered under Section 148, 324 and 436, I.P.C., and was subsequently referred as false. Exhibit P-26 is that complaint [defence objects to this being marked on the ground that it comes within Section 162, Cr.P.C. Objection overruled. Exhibit P-26 cannot be regarded as a statement recorded in the course of the investigation into the present offence although undoubtedly the present offence was under investigation at the time. It is an independent complaint made by accused 2 and is relevant under Section 8 of the Evidence Act. The mere fact that the present offence (in which the accused was not even named) was under investigation at the time does not make this complaint by accused 2 a statement falling under Section 162, Cr.P.C., in respect of the present offence.

(Initialed) P.T.R.

29—11—1952.]

Accused 2 made his complaint in Malayalam, a language I can follow but not very well. One of the persons with me translated it into Kanarese and I recorded Exhibit P-26 in Kanarese. I read Exhibit P-26 read out and explained to accused 2 in Malayalam and took his signature to it after he admitted it to be correct.

I sent the injured with P.W. 6 to the hospital in the bus and proceeded to the scene in my taxi. I reached there soon after midnight.

At the scene I found the deceased lying dead at the spot marked C in the plan Exhibit P-25. Seventy feet south-east of this at the point F, I found a burnt down hut. The basement which was of mud appeared to be old. It was 18 feet by 8 feet 2 inches. The superstructure was completely burnt and nothing remained excepting burnt out poles and ash. On the basement I found the grinding stone and roller, M.O. 1 and M.O. 1 (a). Also five stones (M.O. 2 series) arranged to form a hearth. I also found the half burnt iron ladle (Chattukam) M.O. 3, the coconut scraper (Chiruva) M.O. 4 with the wooden base charred, and the tin container M.O. 5. I seized these articles. I did not find any pots or even broken pieces of pots in this basement.

At the spot G about 7 feet north-east of E, I found another mud basement which appeared to be new. The mud was fresh and soft and damp. That basement was 15 feet by 11½ feet. There were 8 wooden posts lying half burnt about 10 feet north of the basement and in the basement were holes indicating that the posts had been pulled out from them. There was one post still standing on the basement but it appeared to have been chopped off 54 inches above the ground level. On the basement I found a number of house-hold articles such as copper vessels, eating plates, a steel trunk, mats, tumblers, a cot, a bed lamp, pickaxes, hoes and other agricultural implements, etc. Within the steel trunk were stationery articles among which was a writing pad (M.O. 6) in which only 4 sheets were left bearing accused 1's letter head. To the east of the basement I found the two half burnt cadjan torches, M.Os. 7 and 7 (a) and green fresh split bamboos. No articles on the basement showed any signs of having been subjected to fire. About 10 feet away to the north of the burnt basement I found a heap of bamboos and wooden posts half burnt and charred and the remains of partly burnt cadjan thatch.

When accused 2 made his complaint Exhibit P-26 he produced the knife M.O. 8 which I seized.

At the scene I held an inquest on the dead body between 1 a.m. and 3-30 a.m. on 21—5—1952. I handed over the body to P.W. 9 for being taken to the Hosdrug hospital for autopsy. At the inquest I questioned P.Ws. 10 and 11.

The plot where the occurrence took place is marked 'A' in Exhibit P-25. In that plot I found plantain trees, tapioca plants about inches high and murikku grass for neither side.

On 21—5—1952, I returned to Hosdrug and questioned P.W. 8. My Circle Inspector was present then. Then the Circle Inspector and myself went to the scene where I questioned P.W. 13 and accused 2's wife.

On 22—5—1952, I questioned P.W. 18, accused 1 and others. I searched accused 1's house which is about 3 furlongs west of the scene but found nothing incriminating. That is a well built thatched house with mud walls.

On 23—5—1952, I questioned P.W. 15. He produced, Exhibit P-14 which I seized. On that day I questioned P.Ws. 14, 13 and 6. I arrested all the three accused on that day. When accused 1 was arrested, there was a knife (M.O. 5) on his person which I seized. It was then whole—now it has been dismantled and is in pieces.

When we inspected the scene on 22—5—1952 the shanbhogue P.W. 19 was there. We gave him instructions for preparing a plan and he prepared the plan Exhibit P-25 which he handed over on 27—5—1952 on which day I questioned him.

On 26—5—1952, P.W. 18 produced some documents Exhibits P-16 to P-20.

The knives and other articles seized I sent to Court for being sent to the Chemical Examiner.

I laid the charge-sheet on 6—6—1952.

From Hosdrug to the scene of offence is 20 miles. It is connected with Hosdrug with a bus road. The scene of offence is high hilly country near the ghats and the road descends towards Hosdrug. I know accused 1. He knows cycling.

Cross-examination.—Accused 2's complaint Exhibit P-26 was referred as false on 6—6—1952 the day on which I laid the charge-sheet in this case. Exhibit P-26 was investigated side by side with this case. It was practically one investigation. When the referred notice was served on him accused 2 was in remand and he has been in remand since then. Accused 1 was arrested after Exhibit P-14 was seized from P.W. 15.

I met accused 1 only on 22—5—1952 and I questioned him immediately. I did not meet him on 21—5—1952.

In the plot west of the occurrence plot there is a house. My diary does not show that I examined any of the inmates of that house. My diary does not show that there is any house in that plot. The only house visible from the scene is one north of it across the road. It is about 150 feet north of the road. It is the house of one Koman Nair

My record does not show that I questioned P.Ws. 10 and 11 with reference to the possession of the plot. Nor that P.W. 13 told me anything about the possession

Among the panchayatdars at the inquest was one Habpeika Ananda. He is the driver of tax M.D.X. No. 1195 by which I travelled to the scene and not P.W. 14. The Patel P.W. 11 was questioned in the course of the inquest. At the inquest only two witnesses were examined. P.Ws. 10 and 11

In the course of my investigation I questioned one P. Matha who lives 2½ furlongs from the scene. In which direction I do not know.

The spots where the injured (except the deceased) were lying were pointed out to me by P.W. 1

In the basement I saw three stones arranged to from a hearth with ashes in it

P.W. 8 told me that after some time he noticed accused 1 to 3 along with some others, pulling out the newly built shed by the accused and throwing to a side and setting fire to it. (Exhibit D-7)

P.W. 13 told me that he found the deceased, his father, his sister and accused 2 and 3 and their mother lying on the scene with injuries and that he treated them all with water (Exhibit D-8) He also told me that he saw some light at the scene of offence when he passed that way at about 4-15 a.m. (Exhibit P-3). My record does not show that he told me that on the previous afternoon when he passed that way he saw a new house being constructed on the land

I did not obtain a copy of Exhibit P-1 for the purpose of this investigation. I do not remember having seen or read Exhibit P-1 The Circle Inspector might have done it but I do not know

I found a blood-stained mat at the scene of offence. I seized it.

Re-examination.—Nil

(Signed) M. Ananthanarayana
Sub-Inspector of Police

29—11—1952

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
29—11—1952. *Sessions Judge.*

(True copy)

Exhibit P-27

(*Statement of the first accused.*)

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE, KASARAGODE.

Preliminary Register Case No. 9 of 1952.

Statement of the first accused

Name—Kuriyakose. Father's name—Thomman. Village—Panathady. Taluk—Kasaragode. Caste—Syrian Christian. Calling—Cultivation. Religion—Christianity. Age—25 years.

Date, 7—8—1952.

Q.—Have you defence witness to be examined in this Court?

A.—No.

(Signed) P. T. Kuria Kose.

Certified that, etc.

(Signed) H. RAMESH RAO

7—8—1952. *Stationary Sub-Magistrate.*

(12—8—1952.)

Q. You have heard the evidence of P.Ws. 1 to 25. P.W. 1 Ambu Nayar and P.W. 8 Kelu Nayar say, that the scene of offence, i.e., Chennakad a plot of 5 acres, i.e., the plot marked A in Exhibit P-4 was given on oral *Marupattam* lease to the deceased by the Thekkekoyilagam Rajah of Nileshwar, about 1½ years back and that on account of this the deceased had paid *nigidhi porappad* as seen in the duplicate receipts Exhibits P-9 (a) and P-10 (a). P.Ws. 1 and 2 (Bellachi) say that the originals of these receipts have been burnt along with the other records when the house built by the deceased was burnt. What do you say in this respect?

A.—It is not correct to say that this plot was given to him before 1½ years by the Nileshwar Thamburan. There was no occasion for him to pay *porappaa* in respect of this.

Q.—P.W. 7, Shanbhogue, says, that the first item in Exhibit P-6, i.e., six acres of plot by the side of the road is the plot obtained by you under the assignment deed, Exhibit P-22, from the executant of Exhibit P-6, Kallar Andukka, son of Kallar Mammad and is not the plot marked A in Exhibit P-4?—Beside

P.W. 7 also says that he had also perused the Exhibits P-5, P-7 and P-8 when he inspected the plot to identify the boundaries at the time of preparation of Exhibit P-4. What do you say regarding this?

A.—What the Shanbhogue says is not correct. The scene of offence which is called Chennakad was in the possession of Mammad and he obtained it under Exhibit P-6 and is included within the boundary of the first item in Exhibit P-6. This very property was obtained on assignment under Exhibit P-22.

40 Q.—P.W. 7 says that Exhibit D-1 plan was not prepared for you. The plot of six acres shown in this plan when compared with the plan Exhibit P-4, it is found that it is not the plot marked A in it. What do you say regarding this?

A.—The plan Exhibit D-1 was prepared for me by the Shanbhogue after measurement. The reason for the variation in these two plans is that the Shanbhogue had prepared Exhibit P-4 incorrectly to suit the case.

Q.—P.W. 8 says that the scene of occurrence was not so far given by the Thekkekovilagam Raja on *Marupatam* or under any other document and that the plots given to you are the only plots covered by the lease deeds Exhibits P-13 (a) and P-15 (a) executed by you. Besides that you have not till now neither entered nor erected improvements in the scene of occurrence. What do you say regarding this?

A.—P.W. 8 deposes falsely for the case. Since three years I am entered on it and effected improvements. On account of it I paid *nigadhi porappadu* and obtained receipts for. Those have been produced now. I have not cultivated the plots described in Exhibits P-13 (a) and P-15 (a). Those plots are in the possession of Krishnan Nayar (Manikala)

Q.—P.W. 19 Kalayani Ambu and P.W. 20 Krishna Nayar (brother-in-law of Kora Nayar) say that the well and the channel in the scene of offence were dug by Perundatte Kora Nayar father-in-law of the deceased and that as he did not get water he entered upon the plot adjoining the scene of offence and lying to the north of the road and began to live there. After the death of the said Kora Nayar his children and others are residing even now. What do you saw regarding this?

A.—What they say is false. The well and channel have been got dug by Kallaru Mammad. At no time Perundatti Kora Nayar entered on this plot.

Q.—It is seen from Exhibits P-6 and P-22 (dated 24—4—1952) that Aisamma's plot is close to the southern boundary of the plot f 6 acres by the side of the road. P.Ws. 1, 7, 8 and 17 say that o the south of this scene of offence there is only forest and not the lot (garden) of Aisamma. What do you say regarding this?

A.—What the witnesses say is not correct.

Q.—P.Ws. 1, 2, 3, 7, 8, 14, 15, 17, 18, 19 and 21 say that bout 3 months prior to the day of occurrence (19—5—1952) the eceased and P.Ws. 1 and 2 began to work in the scene of offence leared the forest and built the house, planted props of Hongaraka ree for the pepper vines, planted tapioca and near the house lanted plantain trees and the deceased, P.Ws. 1, 2, 3 and 19 also egan to live in the house. What do you say regarding this? 10

A.—What they say is false.

Q.—The above stated witnesses also say that you or any of you either entered the said plot nor effected improvements, etc. Wha o you say regarding this?

A.—That is not correct.

Q.—It is seen from the evidence of P.Ws. 4, 5 and 8, that the letter, Exhibit P-2, was written by P.W. 4 on 25—4—1952 on 20 your behalf and gave it to you for being delivered to P.W. 5, that you delivered it to P.W. 5 and requested P.W. 5 to give the scene of occurrence to you for which he replied that it was in the possession of others and not possible to give and that the reply written some days later for the above letter Exhibit P-2 was read by P.W. 4 and given to you. What do you say regarding this?

A.—As P.W. 8 illegally frightened me several times to quit this plot, I told P.W. 4 and obtained Exhibit P-2 and gave it to P.W. 5. P.W. 4 did not give me his reply.

Q.—It is seen from the complaint Exhibit P-37 given to 30 P.W. 22 Hosdrug Station-house Officer by your brother accused 2, that the deceased, P.Ws. 1, 2 and others built a house in the scene of offence and were living in it about 1½ weeks before the offence. It is seen from the evidence of P.W. 14 (potail) and P.W. 22 (Station-house Officer) that you neither complained to the potail nor to the Police about this, and that either before or after that you did not complain that they neither trespassed nor effeced improvements either in the scene of occurrence or on any of your plots. What do you say regarding this?

A.—I do not know anything about this. 40

Q.—It is seen from the evidence of P.W. 10 and P.W. 23 that Exhibit P-23 is the letter in your letter head paper in your own handwriting bearing your signature addressed to P.W. 10

Keshava Kamthi and that Exhibit P-23 paper corresponds to M.O. XXXV (5 letter heads) paper seized by P.W. 22 from your trunk. What do you say regarding this?

A.—I did not write the letter like this. I did not sign. My letter pad was in the box at the scene. This letter was concocted after removing the letter head paper.

Q.—It is seen from the evidence of P.Ws. 22, 10 and 13 that Exhibit P-23 was seized under Exhibit P-24 by P.W. 22 from P.W. 10 on 23—5—1952 at 2 p.m. in the presence of P.W. 13. What do you say regarding this?

A.—I do not know anything about this. This is completely false.

Q.—It is seen from the evidence of P.Ws. 10, 17 and 21 that you on 19—5—1952 at 2-40 p.m. stopped near the scene of occurrence the Panathadi-Hosdrug bus driven by P.W. 21 and gave to him Exhibit P-23 to be delivered urgently to P.W. 10, that P.W. 21 could not deliver the said letter to P.W. 10 on that day and gave it to P.W. 17 on the following day at 9-30 o'clock for delivering it to P.W. 10 and that P.W. 17 delivered the said letter on 20th May 1952 at about 10 a.m. at his office. P.W. 10 says that he received the said letter. What do you say regarding this?

A.—All these are false.

Q.—On 19—5—1952 you wrote in Exhibit P-23, "To-day we would do our tapioca planting work, build a house and reside (in it). Others are residing only in another house. To-day in the evening 10 Maplas should be sent from somewhere after sending for them through that Soopi or with others. This is very urgent. You must ascertain in the morning either personally or by sending some other person as to what has happened here. (We) have to fight for justice." Besides you have written. "To-day and to-morrow it is not possible for me to come that side. In future it is possible for us to see let us see personally." What do you say regarding this?

A.—All these are false. The said letter was concocted to implicate me in this case.

Q.—P.W. 25 says that your signature in Exhibit P-23 is just like your signature in Exhibit P-44 signed by you in the presence of P.W. 25, Chandu Nayar, clerk under P.W. 4. P.W. 7 says that your Malayalam handwriting and signature in Exhibit P-30 was made in his presence. The writing and signature in Exhibit

P-35 looks like the writing and your name, i.e., P. T. Kuriyakose written in Malayalam in Exhibit P-23 what do you say regarding this?

A.—Their opinion is not correct.

Q.—P.W. 10 says that you did not come to the house of P.W. 10 either on 19—5—1952 or on 20—5—1952 and that you never saw him. What do you say regarding this?

A.—On 19—5—1952 I went to the house of P.W. 10. In the night I remained there itself. His nephew and his brother's son were there?

Q.—P.Ws. 1, 2, 3, 18, 19 and 21 say, that on 19—5—1952 in the morning at about 10 o'clock you, accused 2 and 3 and about 30 persons entered on the scene of occurrence and dug the bottom of the tapioca plants and began constructing a hut with the materials brought by the deceased for constructing a cattle-shed. Then when the deceased objected to it, you and others frightened him Later the deceased went to P.W. 8 to complain about this and returned after complaining. Later you proceeded with your work. The deceased and others being afraid of you remained quite. In the evening you and others brought your household articles. Your women were not with you. There was a petromax light in your hut. There you did not cook. Apart from you your men who had come for work were with you there. What do you say regarding this?

A.—What the witnesses say is false.

Q.—It is seen from the evidence of P.W. 22 that when he visited your house 3 furlongs away from the scene of offence and inspected the condition there, he found that there was no necessity for you to build a house on 19—5—1952 and reside there with women. What do you say regarding this?

A.—His opinion is not correct.

Q.—It is seen from the evidence of P.W. 21 that on 19th May 1952 P.W. 21's bus went out of order (bus which ought to halt at Panathadi in the night) and on that day evening the bus was late and while starting from Kotechery it was about 2-30 o'clock in the night and while reaching Panathadi it was 4—4-30 o'clock when he reached the scene of offence he saw the petromax light in the scene of occurrence and did not notice anything special there. What do you say regarding this?

A.—What he says is not correct.

Q.—It is seen from the evidence of P.Ws. 1 to 3 and 19 that after the bus went towards Panathadi you, accused 2 and 3 went in front of the house of the deceased, and P.Ws. 1 to 3 and 19, while they were asleep inside the house at about cock-crowing time, that you called out to the deceased and woke them up and asked them to quit the house. On their declining to quit, you on telling that you would make them quit, got country torches tied up, lighted it and with it you set fire to the eastern portion of the deceased's house and that accused 2 and 3 set fire to the southern portion. What do you say regarding this?

A.—All these are false. I was not in that spot.

Q.—It is seen from the evidence of P.Ws. 1 to 3 and 19 and Perundatte, Kora Nayar to the north of the road and working in from the evidence of P.W. 18 who was staying in the house of P.W. 17's pepper garden adjoining the scene of occurrence and who on hearing the cries at that time came to the road and looked, that when the house was set fire the inmates of the house came out and raised cries and stayed under a tree north-east of the house. As soon as the roof of the house fell down, the deceased, behind him P.W. 2, behind her P.W. 1, and behind him P.Ws. 3 and 19 went towards the burnt house to find out whether they could recover any articles. When they reached near the house you asked them whether they would not go away still, for which the deceased replied that they would not go away from their place. What do you say regarding this?

A.—All these are false. I do not know anything about this.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3, 18 and 19 that when the deceased said that he would not vacate the plot you aimed a stab on the chest of the deceased with the knife which was in your hand which blow the deceased warded off with the hand. Then the deceased ran to the noth-west out of fear. Then you chased him. He tripped and fell with face downwards. Then you stabbed at his back, where he had fallen. What do you say regarding this.

A.—This is false.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3 and 18, 19 that when the deceased ran as soon as you stabbed him, P.W. 2 ran after him raising an alarm and accused 3 chased her and stabbed 5, 8, 10 times with the knife. P.W. 1 who ran behind P.W. 2 was stabbed with a knife by accused 2. P.Ws. 1 and 2

fell down there due to the injuries. P.Ws. 3 and 19 on seeing this got frightened and ran towards the road. What do you say regarding this?

A.—I do not know anything about this. I was not in that spot.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3, 18 and 19 that later accused 2 and 3 pulled down your shed, removed its materials a little to its north, set fire and burnt them. At this time you were not to be seen anywhere in that place. What do you say regarding this?

A.—We never did this thing.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3, 8, 18 and 19 that neither P.W. 8 nor the deceased nor P.Ws. 1 and 2 nor others pulled down the shed built by you on that day, set fire to it and quarrelled with you. That to you say regarding this?

A.—This is not correct.

Q.—It is seen from the evidence of P.W. 21, that on 20—5—1952 in the morning at about 7-15 when P.W. 21 was coming from Panathady in the bus (he saw) at the scene of offence two houses burnt the deceased and P.Ws. 1 and 2 lying injured at the scene of offence, accused 2 and 3 and two women sitting on one side and that according to his estimate the offence must have been committed about 2 hours before he reached there. What do you say regarding this?

A.—I do not know anything about this.

Q.—It is seen from the evidence of P.W. 15 that at about 9-30 o'clock when P.W. 15 talayari came to the scene of offence and looked at the injured persons, he found accused 2 and 3 injured not to such an extent as to make them unable to walk, the deceased dead and P.Ws. 1 and 2 lying unconscious due to the injuries. It is seen from the evidence of P.W. 14 that later P.W. 15 gave the statement Exhibit P-25 before P.W. 14 who after sending Exhibit P-25 with the report Exhibit P-26 to the Police station and Sub-Magistrate through another talayari, went to the scene of offence and noticed the particulars at the place and made arrangements to send the injured persons to the Hosdrug hospital. What do you say regarding this?

A.—I do not know anything about this.

Q.—P.W. 22 says that he saw the injured persons in the bus, questioned them, came to the scene, saw the deceased and prepared the inquest report Exhibit P-27 over his dead body, inspected

the scene on the morning of 21—5—1952 and prepared the observation yadast, Exhibit P-28. What do you say regarding this?

A.—I do not know about the record prepared by the Sub-Inspector. I took the Sub-Inspector from Kanhangad in a taxi. When we reached Attengara, we saw accused 2 and 3 in the bus.

Q.—It is seen from the evidence of P.W. 22 that the foundation of the house in which the deceased was living was older than the foundation of the shed alleged to have been built by you. In the scene of offence there were neither cashewnut plants nor stumps. The Hongarakana props planted for planting pepper vines have just sprouted in the scene of offence. They were 6 feet in height. Tapioca and plantain plants have been planted. What do you say regarding this?

A.—The opinion of the Sub-Inspector is not correct.

Q.—It is seen from the evidence of P.W. 22 that he seized M.Os. 13 to 17, etc., properties from the foundation of the deceased's house, that they had signs of having been burnt by fire and that the properties, M.Os. 18 to 53 seized from the foundation of the house alleged to have been built by you did not contain such signs. Besides in those articles such signs are not visible even though they are produced before the Court. Apart from these in the cot M.O. 55 seized from there signs of smoke having struck to it are visible and not the burnt signs. What do you say regarding this?

A.—It is not correct to say that the deceased was residing (in the house). Our house and our articles have been burnt. As the roof of another house was pulled down and set fire, the articles there were not burnt. Another house means the house occupied by my mother and brother. As the house occupied by me was set fire and burnt the articles in it were stained with soot.

Q.—It is seen from the evidence of P.Ws. 22, 23 and 24 that P.Ws. 22 and 23 saw you for the first time after the occurrence on 21—5—1952, that you came to Hosdrug on 23—5—1952 when the Circle Inspector came there, that you were arrested on that very day in the evening at 7-45 by P.W. 22 and that he arrested accused 2 and 3 at 9-15 and 7-30 o'clock. While you were arrested P.W. 22 seized M.O. 60 (knife). P.W. 22 seized M.O. 6 (knife) as per Exhibit P-32 from accused 2 on 20—5—1952 at the time of the complaint Exhibit P-37. It is seen from Exhibits P-42, P-43 and P-43 (a) that M.O. 6 was stained with human blood. What do you say regarding this?

A.—It is not correct to say that I was seen on 21—5—1952 for the first time. On 20—5—1952 in the evening at 5 o'clock myself, Sub-Inspector, one constable and Dr. Keshava Pai together went

to Kotechery, went to the doctor's house, took the medicine and in the night at 7-30 o'clock went together to the scene of offence in the taxi of Abdul Khadar driven by driver Ananda. I do not know the remaining things.

Q.—P.W. 6 says that he recorded the statement (dying declaration) from P.W. 1, which is marked as Exhibit P-1. What do you say regarding this?

A.—What is stated in Exhibit P-1 is not correct.

Q.—It is seen from the evidence of P.W. 16 who conducted the autopsy on the dead body in the presence of P.W. 12 and from Exhibit P-29, that the injury on the right hand finger of the deceased could have been caused while trying to ward off the knife blow from the front, that the injury on the back and on the right leg could have been caused after the injured had fallen with his face downwards, that the deceased might have died due to the injury on the back and that the injured could not have proceeded after receiving the injuries. What do you say regarding this?

A.—I cannot say anything about this.

Q.—P.W. 9 says that he examined P.Ws. 1, 2, accused 2 and 3 and your mother Yeli and issued certificates Exhibits P-17, P-18, P-19, P-20 and P-21. P.W. 11 says on perusing the hospital records that P.Ws. 1 and 2 were in the hospital as in-patients for 25 days. It is seen from the evidence of P.Ws. 9 and 11 that Yeli had no injuries and that she was admitted in the hospital only for examination. P.W. 9 says that the injury item 3 (in Exhibit P-17) on the person of P.W. 1 was grievous and would be sufficient in the ordinary course of nature to kill a person of the age of P.W. 1 and that the injury in the left hand of P.W. 2 has rendered that arm permanently disabled. P.W. 2 also says in the Court by showing her hand that there is no strength even now to the left arm and is of no use. What do you say in this respect?

A.—I cannot say anything about the injuries of P.Ws. 1 and 2. Accused 2 and 3 had injuries. My mother had weakness and pain in the body.

Q.—Have you anything else to say?

A.—The alleged scene of occurrence before I took it on transfer from Andukka as per Exhibit P-22, was in my possession only as per the agreement which I am producing now. The counterpart of the lease produced by me was executed by the Thekkekovilagam Raja of Nileshwar to Mammad father of Andukka. Since 3 years we entered on this plot and are enjoying it by effecting improvements. We have planted pepper vines, tapioca and plantain trees, etc., in it. P.W. 8 objected to me for having

planted tapioca in this plot. Besides (he) told and terrified me everal times that my house would be pulled down and that I would be dragged and driven out.

(Signed) P. T. Kuriyakose.

Certified that, etc.

(Signed) H. RAMESH RAO.

12—8—1952. *Stationary Sub-Magistrate.*

14—8—1952.

Q.—Have you defence witnesses to be examined in the Sessions Court?

A.—Yes.

(Signed) P. T. Kuriyakose.

Certified that, etc.

(Signed) H. RAMESH RAO,

14—8—1952. *Stationary Sub-Magistrate.*

Examination of the first accused.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Examination of the first accused.

Name—Kuriyakose. Father's name—Thanan. Village—Panathady. Taluk—Kasaragod. Caste—Syrian Christian. Calling—Cultivator. Religion—Christianity. Age—25 years.

Date, 29—11—1952.

Q.—You have heard the statement Exhibit P-27 made by you before the Committing Magistrate being read over and explained to you. What do you wish to say?

A.—Exhibit P-27 is a correct record of what I said in the lower Court excepting that what I said was that on the 19th night I slept in P.W. 15's (Keshava Kamath's) brother's son's house, not that I slept in P.W. 15's house and that his brother's son was there. P.W. 15's brother's name is Manjunath. He is dead. His son's name I do not know. We merely call him "Sami".

What I have stated in Exhibit P-27 is the truth. There is another error in it. What I said was that my old hut was burnt and that the new hut in which my mother and brother were living was pulled down and the materials burnt. I did not say that I was living in the old hut.

I am innocent and have committed no offence. The evidence of the prosecution witnesses that the occurrence land was in the possession of the deceased, that the deceased and his people cleared the forest, put up a hut and took up residence there and planted tapioca, murilaku props, plantains, etc., in it about 3 months before the occurrence is completely false. The receipts and jama books, etc., spoken to by P.W. 18 have been fabricated. The land was never in the possession of the deceased. Until 1125 it was in the possession of Andukka whose father Mammad had obtained it from the Nileshwar Raja under Exhibit P-21. In Makaram 1125 I entered on the land and took possession of it in pursuance of an oral agreement by Andukka to assign his leasehold to me. A few months later I got a written agreement from him. In April 1952 I got the registered assignment deed, Exhibit P-16 from him.

Ever since I entered on the land myself and my brothers were working on it. We planted tapioca, murikku props, ginger, turmeric, etc., and the land was in our undisputed possession. Soon after entering on the land we built a hut in which we used to live when working there. From various sources I heard, about a month before the occurrence, that P.W. 18 did not like our being on the land and raising tapioca there, and that he was threatening to eject us by force. It was because of that that I went and saw C.W. 1 and took a letter from him to Ravi Varma Raja of Nileshwar. The Raja gave no reply. Two days before the occurrence during our absence P.W. 18 trespassed on the land and installed the deceased and P.W. 2 in our hut. We were helpless and wanted to avoid trouble. So, near the old hut we constructed a new hut with materials we had already collected. We had been thinking of putting up a new hut for some time since the old hut did not suffice for our needs. My mother and accused 2 and his family and accused 3 took up residence in the new hut while the deceased was living in our old hut.

It was on the 19th May that my mother and brothers took up residence in the new hut after moving all the necessary household articles from my other house about half a mile away. Our agricultural implements were already there. On the 19th evening I went in a passing lorry to Hosdrug where I had to collect money for tapioca, etc., sold. That night I stayed in Hosdrug in Manjunath Kamath's house. Early next morning I went to Hosdrug Church and attended mass. At about 7 a.m. when I was returning from the Church to Manjunatha Kamath's house one Mani who lives in Panathadi came and told me that my huts had been burnt and that my brothers and mother had been beaten and driven out by P.W. 18 and his men. I went at once to Vakil Kumaran Nair

to take his advice but he was not there. Then I went to Vakil N. K. Nambiar and told him what had happened. He advised me to go to the Patel and get a report from him. Then I went to the Police station and told the Station-writer. He asked me to obtain the Patel's report. Then I went to the Patel's house in Odeyanchal about 12 miles from Hosdrug on the Panathadi Road in a lorry going to Rajapura Stores-Supply Officer Raman Nair was in the lorry. I went to the Patel and reported the matter. He promised to come and see. Then he came with me to the lorry which was waiting on the road 2 or 3 furlongs away. On the way one Ouseph and Kuriakose who live near Chennakad came and told me that there had been affray in my land about 7 that morning. The Patel (P.W. 11) and I went to the scene in the lorry taking P.Ws. 10 and 19 in the lorry from Rajapura (Echikol). When we reached the scene I found my old hut burnt down and the new hut pulled down and its materials burnt in front of it. The deceased, P.Ws. 1 and 2 and accused 2 and 3 and my mother were lying on the ground with injuries. I asked P.W. 11 to take my statement and send a report. He said he would send a report later and asked me to go to Hosdrug and fetch a taxi to take the injured to the hospital. I went to Hosdrug and engaged one Abdul Khader's taxi driven by one Ananda. Just as we were starting a constable took the taxi to the Police station and from there myself and P.W. 20 and P.W. 6 and others went in the taxi to the scene of offence. At Attayangam we met a bus coming opposite with the injured persons in it. P.W. 6 went in the bus with the injured persons while the Sub-Inspector (P.W. 20) and I proceeded to the scene of offence in the taxi. This is what really happened. All that the prosecution witnesses have said is false. P.W. 18 has concocted the entire case against us and the Patel and P.W. 20 have joined him. We are poor people from Travancore came to eke a living here. The Nileshwara Raja and other big people of the area including P.Ws. 11 and 18 do not like us. We settlers from Travancore are also disliked by the natives of the place. Hence all of them have joined together to concoct this false case to drive us and the other Travancore settlers out of the place.

Q.—You have heard evidence regarding the letter, Exhibit P-14. P.W. 13 had said that you handed it over to him on the 19th afternoon at Chennakad for being delivered to P.W. 15. P.W. 14 delivered it to P.W. 15 on the 20th and from P.W. 15 it

was seized by the Police. P.Ws. 10, 16 and 19 have said that the handwriting and signature in Exhibit P-14 are yours. What do you wish to say?

A.—All this evidence is false. I never wrote such a letter. The Police seized my letter pad and must have got Exhibit P-14 fabricated on my letter-head. Neither the writing nor the signature in Exhibit P-14 is mine although the letter-head is mine.

Q.—You have heard P.W. 20's evidence that when he saw accused 2 in the bus accused 2 made to him the complaint, Exhibit P-26. What do you wish to say? 10

A.—I know nothing about it. I saw the Sub-Inspector (P.W. 20) go to bus and talk with the people there. But I was sitting in the taxi some distance away.

Q.—Have you anything else to say?

A.—Nothing excepting that I am innocent. P.Ws. 11 and 18 with the backing of the Nileshwara Raja and all the big people of the locality have conspired and concocted the false case against us. It is as a result of the influence of all these big persons including the Raja that their tenants and dependants P.Ws. 1 to 3, 8, 13 to 15 and 19 have come forward and given false evidence regarding the possession of the land and also regarding the occurrence. 20

Q.—Have you any defence witnesses?

A.—Yes. My vakil will examine those that are necessary.

(Signed) P. T. Kuriakose.

Certified, etc.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

Exhibit P-28.

(Statement of the second accused.)

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE, KASARAGODE.

Preliminary Register Case No. 9 of 1952:

Statement of the second accused.

Name—Ulahannan. Father's name—Thomman. Village—Panathady. Taluk—Kasargode. Caste—Syrian Christian. Calling—Cultivation. Religion—Christianity. Age—27 years.

10 *Date*, 7—8—1952.

Q.—Have you defence witnesses to be examined in this Court?
A.—No.

(Signed) P. T. Ulahannan.

Certified that, etc.

(Signed) H. RAMESH RAO,
7—8—1952 *Stationary Sub-Magistrate*

(12—8—1952.)

Q.—You have heard the evidence of P.Ws. 1 to 25, P.W. 1 Ambu Nair and P.W. 8 Kelu Nair say that the scene of offence,
20 i.e., Chennakad a plot of 6 acres, i.e., the plot marked A in Exhibit P-4 was given an oral *marupattam* lease to the deceased by the Thekkikovilagam Raja of Nileshwar about 1½ years back and that on account of this the deceased had paid *nanani porappad* as seen in the duplicate—receipts, Exhibits P-9 (a) and P-10 (a). P.Ws. 1 and 2 (Bellachi) say that the originals of these receipts have been burnt along with the other records when the house built by the deceased was burnt. What do you say in this respect?

A.—That plot was not given to the deceased. There was no reason to pay the *porappad* in respect it.

30 Q.—P.W. 7 Shanbhogue says that the 1st item in Exhibit P-6, i.e., six acres of plot by the side of the road is the plot obtained by accused 1 under the assignment deed Exhibit P-22 from the executant of Exhibit P-6 Kallar Andukka, son of Kallar Mammad, and is not the plot marked A in Exhibit P-4. Besides P.W. 7 also says that he had also perused the Exhibits P-5, P-7 and P-8 when he inspected the plot to identify the boundaries at the time of preparation of Exhibit P-4. What do you say regarding this?

A.—What the Shanbhogue says is not correct. Item 1 in Exhibit P-6 is the scene of offence. What is stated in Exhibit P-22 is the very same plot.

Q.—P.W. 7 says that Exhibit D-1 plan was not prepared for accused 1. The plot of six acres shown in this plan when compared with the plan, Ehibit P-4, it is found that it is not the plot marked A in it. What do you say regarding this?

A.—Exhibit D-1 plan was prepared by the Shanbhogue on our behalf. I do not know about the plan Exhibit P-4.

Q.—P.W. 8 says that the scene of occurrence was not so far given by the Thekkikōvilagam Rajah on *marupattam* or under any other document and that the plot given to you are the only plots covered by the lease deeds, Exhibits P-13 (a) and P-15 (a) executed by accused 1. Besides that none you have till now neither entered nor effected improvements in the scene of occurrence. What do you say regarding this?

A.—Since 3 years this plot was cultivated by us including me. We have not cultivated the other plots belonging to the Thambran. What P.W 8 says is false.

Q.—P.W. 15 (Talavari Ambu) and P.W. 20 (Krishna Nair) (brother-in-law of Kora Nair) say that the well and the channel in the scene of offence were dug by Perundatte Kora Nair father-in-law of the deceased and that as he did not get water he entered upon the plot adjoining the scene of offence and lying to the north of the road and began to live there. After the death of the said Kora Nair his children and others are residing even now. What do you say regarding this?

A.—When we entered on that, the said well and channel were there. We learnt from the children of Mammad and from the people of the place that these were dug by Kallar Mammad.

Q.—It is seen from Exhibits P-6 and P-22 that Aisamma's plot is close to the southern boundary of the plot of 6 acres by the side of the road. P.Ws. 1, 7, 8 and 17 say that to the south of this scene of offence there is only forest and not the plot (garden) of Aisamma. What do you say regarding this?

A.—What the witnesses say is not correct.

Q.—P.Ws. 1 to 3, 7, 8, 14, 15, 17 to 19 and 21 say that about 3 months prior to the day of occurrence (19—5—1952) the deceased and P.Ws. 1 and 2 began to work in the scene of offence cleared the forest and built the house, planted crops of Hongaraka tree for the pepper vines, planted tapioca and near the house planted plantain trees and the deceased, P.Ws. 1 to 3 and 19 also began to live in the house. What do you say regarding this?

A.—What they say is false.

Q.—The above stated witnessess also say that you or any of you neither entered the said plot nor effected improvements, etc. What do you say regarding this?

A.—What they say is not correct.

Q.—It is seen from the evidence of P.Ws. 4 and 5 that the letter Exhibit P-2 was written by P.W. 4 on behalf of accused 1 who delivered it to P.W. 5 and requested P.W. 5 to give the scene of occurrence to him for which P.W. 5 replied that it was in the possession of others and not possible to give. Some days later P.W. 5 wrote a reply to P.W. 4 which P.W. 4 read and gave it to accused 1. What do you say regarding this?

A.—I do not know about this.

Q.—It is seen from the complaint Exhibit P-37 given to P.W. 22 Hosdrug Station-house Officer by you that the deceased, P.Ws. 1, 2 and others built a house in the scene of offence and were living in it about 1½ weeks before the offence. It is seen from the evidence of P.W. 14 (potail) and P.W. 22 (Station-house Officer) that you neither complained to the potail nor to the Police about this, and that either before or after that you did not complain that they neither trespassed nor effected improvements either in the scene of occurrence or on any of your plots. What do you say regarding this?

A.—I did not say like that.

Q.—It is seen from the evidence of P.Ws. 10 and 23 that Exhibit P-23 is the letter in accused 1's letter-head paper in his own handwritng bearing his signature addressed to P.W. 10 Keshava Kamthi. What do you say regarding this?

A.—I do not know anything about this.

Q.—It is seen from the evidence of P.Ws. 10, 17 and 21 that on 19—5—1952 at 2-40 p.m. accused 1 stopped near the scene of occurrence the Panathadi-Hosdrug bus driven by P.W. 21 and gave to him Exhibit P-23 to be delivered urgently to P.W. 10, that P.W. 21 could not deliver the said letter to P.W. 10 on that day and gave it to P.W. 17 on the following day at 9-30 o'clock for delivering it to P.W. 10 and that P.W. 17 delivered the said letter on 20—5—1952 at about 10 a.m. at his office. What do you say regarding this

A.—I do not know anything about this.

Q.—It is seen from the evidence of P.Ws. 22, 10 and 13 that Exhibit P-23 was seized under Exhibit P-24 by P.W. 22 from P.W. 10 on 23—5—1952 at 2 p.m. in the presence of P.W. 13. What do you say regarding this?

A.—I do not know anything about this.

Q.—Accused 1 wrote in Exhibit P-23 as follows: To-day we would do our tapioca planting work, build a house and reside in it. Others are residing only in another house. To-day in the evening 10 Moplas should be sent from somewhere after sending for them through that Soopi or with others. This is very urgent. You must ascertain in the morning either personally or by sending some other person as to what has happened here (We) have to fight for justice. Besides he had written, To-day and to-morrow it is not possible for me to come that side. In future if it is possible for us to see let us see personally." What do you say regarding this? 10

A.—I do not know anything about this.

Q.—P.W. 25 says that accused 1's signature in Exhibit P-23 is like accused 1's signatures in Exhibit P-44 signed by accused 1 in the presence of P.W. 25 Chandu Nair, clerk, under P.W. 24. P.W. 7 says that accused 1's Malayalam handwriting and signature in Exhibit P-30 was made in his presence. The writing and signature in Exhibit P-35 looks like the writing and accused 1's name, viz., P. T. Kuriyakose written in Malayalam in Exhibit P-23, what do you say regarding this? 20

A.—I have nothing to say regarding this.

Q.—P.W. 10 says that accused 1 did not come to the house of P.W. 10 either on 19—5—1952 or on 20—5—1952 and that accused 1 never saw him. What do you say regarding this?

A.—On 19—5—1952 accused 1 had gone to Kannangad.

Q.—P.Ws. 1 to 5, 18, 19 and 21 say that on 19—5—1952 in the morning at about 10 o'clock you, accused 1 and 3 and about 30 persons entered on the scene of occurrence and dug the bottom of the tapioca plants and began constructing a hut with the materials brought by the deceased for constructing a cattle-shed. Then when the deceased objected to it, you and others frightened him. Later the deceased went to P.W. 8 to complain about this and returned after complaining. Later you proceeded with your work. The deceased and others being afraid of you remained quite. In the evening you and others brought your household articles. Your women were not with you. There was a petromax light in your hut. There you did not cook. Apart from you there were along with you, your men who had come for work. What do you say regarding this? 30

A.—What the witnesses say is false.

Q.—It is seen from the evidence of P.W. 22 that when he visited your house 3 furlongs away from the scene of offence and inspected the condition, there, he found that there was no necessity for you to build a house on 19—5—1952 and reside there with women. What do you say regarding this?

A.—The opinion of the Sub-Inspector is not correct.

Q.—It is seen from the evidence of P.W. 21 that on 19th May 1952 P.W. 21's bus went out of order (bus which ought to halt at Panathadi in the night) and on that day evening the bus was late and while starting from Kotechery it was about 2-30 o'clock in the night and while reaching Panathadi it was 1—1-30 o'clock, when he reached the scene of offence he saw the petromax light in the scene of occurrence and did not notice anything special there. What do you say regarding this?

A.—What he says is not correct.

Q.—It is seen from the evidence of P.Ws. 1 to 3 and 19, that after the bus went towards Panathadi you, accused 1 and 3 went in front of the house of the deceased, and P.Ws. 1 to 3 and 19 while they were asleep inside the house at about cock-crowing time, that accused 1 called out to the deceased and woke them up and asked them to quit the house. On their declining to quit accused 1 on telling that he would make them quit, got country torches tied up, lighted it and with it accused 1 set fire to the eastern portion of the deceased's house and that you and accused 3 set fire to the southern portion. What do you say regarding this?

A.—These are false.

Q.—It is seen from the evidence of P.Ws. 1 to 3 and 19 and from the evidence of P.W. 18 who was staying in the house of Perundatte Kora Nair to the north of the road and working in P.W. 17's pepper garden adjoining the scene of occurrence and who on hearing the cries at that time came to the road and looked that when the house was set fire the inmates of the house came out and raised cries and stayed under a tree north-east of the house. As soon as the roof of the house fell down, the deceased, behind him P.W. 2, behind her P.W. 1, and behind him P.Ws. 3 and 19 went towards the burnt house to find out whether they could recover any articles. When they reached near the house accused 1 asked them whether they would not go away still for which the deceased replied that they would not go away from their place. What do you say regarding this?

A.—What the witnesses say is false.

Q.—It is seen from the evidence of P.Ws. 1 to 3, 18 and 19 that when the deceased said that he would not vacate the plot A-1 aimed a stab on the chest of the deceased with the knife which was in his hand which blow the deceased warded off with the hand. Then the deceased ran to the north-west out of fear. Then accused accused 1 chased him. He tripped and fell with face downwards. Then accused 1 stabbed at his back, where he had fallen. What do you say regarding this?

A.—These are false.

Q.—It is seen from the evidence of P.Ws. 1 to 3, 18 and 19 that when the deceased ran as soon as accused 1 stabbed him, P.W. 2 ran after him raising an alarm and accused 3 chased her and stabbed 5, 8, 10 times with the knife. P.W. 1 who ran behind P.W. 2 was stabbed with a knife by you. P.Ws. 1 and 2 fell down there due to the injuries. P.Ws. 3 and 19 on seeing this got frightened and ran towards the road. What do you say regarding this?

A.—All these are false.

Q.—It is seen from the evidence of P.Ws. 1 to 3, 18 and 19 that later you and accused 3 pulled down your shed, removed its materials a little to its north, set fire and burnt them. At this time accused 1 was not to be seen anywhere in that place. What do you say regarding this?

A.—I did not do anything.

Q.—It is seen from the evidence of P.Ws. 1 to 3, 8, 18 and 19 that neither P.W. 8 nor the deceased nor P.Ws. 1 and 2 nor others pulled down the shed built by you on that day, set fire to it and quarrelled with you. What do you say regarding this?

A.—Men on behalf of the Thambiran, P.W. 8, some Harijans and the deceased also came for voting. They were armed with kathis and guns. They frightened us. They bodily pulled us out and set fire to the house. They did bodily trouble to us.

Q.—It is seen from the evidence of P.W. 21, that on 20th May 1952 in the morning at about 7-15 when P.W. 21 was coming from Pananthady in the bus (he saw) at the scene of offence two houses burnt, the deceased and P.Ws. 1 and 2 lying injured at the scene of offence, you and accused 3 and two women sitting on one side and that according to his estimate the offence must have been committed about two hours before he reached there. What do you say regarding this?

A.—I fell down injured. Who all came and what all happened, I do not know. The opinion of P.W. 21 is not correct.

Q.—It is seen from the evidence of P.W. 15 that at about 30 o'clock when P.W. 15 talayari came to the scene of offence and looked at the injured persons, he found you and accused 3 injured not to such an extent as to make you unable to walk, the deceased dead and P.Ws. 1 and 2 lying unconscious due to the injuries. It is seen from the evidence of P.W. 14 that later P.W. 15 gave the statement Exhibit P-25 before P.W. 14 who after sending Exhibit P-25 with the report Exhibit P-26 to the Police station and Sub-Magistrate through another talayari, went to the scene of offence and noticed the particulars at the place and made arrangements to send the injured persons to the Hosdrug hospital. What do you say regarding this?

A.—What the talayari says that we were able to walk is not correct. It was not possible for me to know the rest of the things. In the evening the potail sent (us) to the hospital is correct.

Q.—P.W. 22 says that he saw the injured persons in the bus, questioned them, came to the scene, saw the deceased and prepared the inquest report Exhibit P-27 over his dead body, inspected the scene on the morning of 21—5—1952 and prepared the observation yadast Exhibit P-28. What do you say regarding this?

A.—It is correct that the Sub-Inspector saw us on the way. Rest I do not know anything.

Q.—It is seen from the evidence of P.W. 22 that the foundation of the house in which the deceased was living was older than the foundation of the shed alleged to have been built by you. In the scene of offence there were neither cashewnut plants nor stumps. The Hongarakana props planted for planting pepper vines have just sprouted in the scene of offence. They were 6 feet in height. Tapioca, plantain, plants have been planted What do you say regarding this?

A.—The opinion of the Sub-Inspector is not correct.

Q.—It is seen from the evidence of P.W. 22 that he seized M.Os. 13 to 17, etc. properties from the foundation of the deceased's house, that they had signs of having been burnt by fire and that the properties M.Os. 18 to 53 seized from the foundation of the house alleged to have been built by you did not contain such signs. Besides in those articles such signs are not visible even though they are produced before the Court. Apart from these in the cot M.O. 55 seized from there signs of smoke having struck to it are visible and not the burnt signs. What do you say regarding this?

A.—Our house was burnt as it was with some old articels in it. The house in which myself, my wife and children, mother and

accused 3 were residing was pulled down and (the articles) were put on the northern side and burnt. That is the reason why some of the articles were not stained with soot.

Q.—It is seen from the evidence of P.Ws. 22, 23 and 24 that P.Ws. 22 and 23 saw accused 1 for the first time after the occurrence on 21—5—1952, that accused 1 came to Hosdrug on 23rd May 1952 when the Circle Inspector came there, that accused 1 was arrested on that very day in the evening at 7-45 by P.W. 22 and that he arrested you and accused 3 at 9-15 and 7-30 o'clock. While you were arrested P.W. 22 seized M.O. 60 (knife). P.W. 22 seized M.O. 6 knife as per Exhibit P-32 from you on 20—5—1952 at the time of the complaint Exhibit P-37. It is seen from Exhibits P-42, P-43 and P-43 (a) that M.O. 6 was stained with human blood. What do you say regarding this?

A.—When the Thambiran's people came and did rioting, I used the knife only for the protection of my body. I did not observe whether there was blood in it.

Q.—P.W. 6 says that he recorded the statement (dying declaration) from P.W. 1, which is marked as Exhibit P-1. What do you say regarding this?

A.—What is stated in Exhibit P-1 is false.

Q.—It is seen from the evidence of P.W. 16 who conducted the autopsy on the dead body in the presence of P.W. 12 and from Exhibit P-29 that the injury on the right hand finger of the deceased could have been caused while trying to ward off the knife blow from the front, that the injury on the back and on the right leg could have been caused after the injured had fallen with his face downwards, that the deceased might have died due to the injury on the back and that the injured could not have proceeded after receiving the injuies. What do you say regarding this?

A.—I cannot say anything about this.

Q.—P.W. 9 says that he examined P.Ws. 1, 2, accused 2 and 3 and your mother Yeli and issued certificates Exhibits P-17, P-18 P-19, P-20 and P-21. P.W. 11 says on perusing the hospital records that P.Ws. 1 and 2 were in the hospital as in-patients for 25 days. It is seen from the evidence of P.Ws. 9 and 11 that Yeli had no injuries and that she was admitted in the hospital only for examination. P.W. 9 says that the injury item 3 (in Exhibit P-17) on the person of P.W. 1 was grievous and would be sufficient in the ordinary course of nature to kill a person of the age of P.W. 1 and that the injury in the left hand of P.W. 2 has rendered that

arm permanently disabled. P.W. 2 also says in the Court by showing her hand that there is no strength even now to the left arm and is of no use. What do you say in this respect?

A.—Myself and accused 3 had injuries. My mother had pain. I cannot say anything about the injuries sustained by P.Ws. 1 and 2.

Q.—Have you anything else to say?

A.—Since 3 years this plot being in our possession was enjoyed by us after effecting improvements. Last time at that place I had terrible illness at night time. Several persons and the priest came there. They came to perform my last rites. In the last Kanya or Thula month the cattle of Kadidody Joseph ate the tapioca planted by us in our plot, i.e., the scene of occurrence. We drove those cattle and complained to the potail. My disputes were settled amicably by Rev. Father Mathew Thekkenadan.

(Signed) P. T. Ulahannan.

Certified that, etc.

(Signed) H. RAMESH RAO,
12—8—1952. *Stationary Sub-Magistrate.*

14—8—1952.

Q.—Have you defence witnesses to be examined in the Sessions Court?

A.—Yes.

(Signed) P. T. Ulahannan.

Certified that, etc

(Signed) H. RAMESH RAO,
14—8—1952. *Stationary Sub-Magistrate.*

Examination of the second accused.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Examination of the second accused.

Name—Ulahannan. Father's name—Thomman. Village—Panathady. Taluk—Kasaragod. Caste—Syrian Christian. Calling—Cultivation. Religion—Chrstianity. Age—27 years.

Date, 29—11—1952.

Q.—You have heard the statement Exhibit P-28 made by you before the Committing Magistrate being read over and explained to you. What do you wish to say?

A.—Exhibit P-28 is a correct record of what I said in the lower Court. I have nothing to add to it. What I have said in it is the truth. I have heard accused 1 make his statement and have

nothing to add to what he said regarding our title to and possession of the land. For three years past the land was in our undisturbed possession. We raised crops on it and built a hut. We were not permanently residing in the hut but whenever there was work I used to live in the hut with my wife for 2 or 3 months at a time. The deceased was never in occupation and all that the prosecution witnesses have said about his possession is false.

For some days before the occurrence we were not living in the hut in the occurrence land but were living in our house 3 furlongs away. Taking advantage of our absence P.W. 18 trespassed on the land and installed the deceased and his people in our hut. This was on the 17th May or so. On the 19th myself, accused 1 and 3 and four or five workmen went and built a new hut near old one into which the deceased and his people had trespassed. We moved household articles into this new hut and myself and my wife and two children and accused 3 and my mother took up residence there. On the 19th evening accused 1 left for Hosdrug. That night at about midnight P.W. 18 came with a number of Charmas and others more than 50 strong and asked us to get out of the house. We declined. Then the Charmas dragged us out of the house and beat us and pushed us to the road. We went to our permanent residence 3 furlongs away. After necking us out of the property P.W. 18's men pulled down our new hut and set fire to the materials. From that fire our old hut caught fire and burnt down. Next morning (Tuesday) at about seven myself and accused 3 and our mother went to the land to collect our belongings. Meanwhile we had sent word to accused 1 at Hosdrug of what had happened. When we went there to take our things the deceased and his wife and P.Ws. 1, 2, 5; one Koman Nair about 12 persons in all came rushing at us armed with knives and sticks. They beat us asking us why we had come back. They also stabbed us. P.W. 2 stabbed me with a small knife. The deceased aimed a stab at my heart. I warded it off with my hand and the knife struck my left forearm. There was a scuffle between us. Accused 3 and my mother came running towards us. The deceased's supporters beat them and felled them to the ground. To save my life I took a knife from my waist and waved it. I swished it about. But whether it struck anybody I do not know. It is that knife M.O. 8 that I handed over to the Sub-Inspector. I became unconscious. After a long time I regained consciousness and set up and found accused 3 also with bleeding injuries. In the afternoon accused 1 came with P.Ws. 11, 19 and many others in a lorry. Accused 1 left to fetch a taxi to take us to hospital. I told the Patel what had happened. He said

nothing in reply. Later he put us in a bus with P.Ws. 1 and 2 and 5 and others and sent us to hospital. There was an injured man lying on the ground who was left behind. Who he was I did not go and see.

This is what really happened. As accused 1 has explained the Nileshwar Raja and other big people of the locality who hate all Travancore settlers have joined together and concocted this false case and set up their tenants and other dependants to give false evidence against us.

Q.—P.W. 20 has said that when he met you on the bus on your way to Hosdrug you made the complaint Exhibit P-26. Exhibit P-26 has been read over and explained to you. What do you wish to say?

A.—I made no such complaint. Nothing was recorded from me. Exhibit P-26 is not my complaint. The signature in Exhibit P-26 is mine. At least it looks like mine. Sometime somewhere somebody took my signature to some paper. What that paper was I cannot say. However that might be I never made any such statement as is found in Exhibit P-26. No statement was read over to me by P.W. 20. If I told him anything I must have told him just as I am stating now.

Q.—Have you any defence witnesses?

A.—Yes. My vakil will examine such as are necessary.

(Signed) Ulahannan.

Certified etc.

(Signed) P. T. RAMAN NAYA

29—10—1952. *Sessions Judge.*

(True copy)

Exhibit P-29

(Statement of the third accused.)

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE KASARAGODE

Preliminary Register Case No. 9 of 1952.

Statement of the third accused

Name—Thommi. Father's name—Thomman. Village—Panathiady Taluk—Kasaragode. Caste—Syrian Christian Calling Cultivation. Religion—Christianity. Age—25 years

Date, 7—8—1952.

Q.—Have you defence witnesses to be examined in this court?
A.—No.

(Signed) Thommi.

Certified that etc.,

(Signed) H. RAMESH RAO,
7—8—1952. *Stationary Sub-Magistrate.*

(12—8—1952.)

Q.—You have heard the evidence of P.Ws. 1 to 25, P.W. 1 Ambu Nair and P.W. 8 Kelu Nair, say that the scene of offence, i.e., Chennakad a plot of 6 acres, i.e., the plot marked A in Exhibit P-4 was given on oral marupattam lease to the deceased by the Thekkikovilagam Rajah of Nileshwar about 1½ years back and that on account of this the deceased had paid *nigidhi porappad* as seen in the duplicate receipts Exhibit P-9 (a) and Exhibit P-10 (a). P.Ws. 1 and 2 (Bellachi) say that the originals of these receipts have been burnt along with the other records when the house built by the deceased was burnt. What do you say in this respect?

A.—That plot was not given to the deceased. There was no reason to pay porappad in respect of it.

Q.—P.W. 7 Shanbhogue says that the first item in Exhibit P-6 i.e., six acres of plot by the side of the road is the plot obtained by accused 1 under the assignment deed Exhibit P-22 from the executant of Exhibit P-6 Kallar Andukka, son of Kallar Mammad and is not the plot marked A in Exhibit P-4. Besides P.W. 7 also says that he had also perused the Exhibits P-5, P-7 and P-8 when he inspected the plot to identify the boundaries at the time of preparation of Exhibit P-4. What do you say regarding this?

A.—What the Shanbhogue says is not correct. Item 1 described in Exhibit P-6 is the scene of offence. It is the very same plot described in Exhibit P-22.

Q.—P.W. 7 says, that Exhibit D-1, plan, was not prepared for accused 1. The plot of six acres shown in this plan when compared with the plan, Exhibit P-4, it is found that it is not the plot marked A in it. What do you say regarding this?

A.—I do not know anything about these plans.

Q.—P.W. 8 says, that the scene of occurrence was not so far given by the Thekkikovilagam Rajah on *marupatam* or under any other document and that plot given to you are the only plots covered

by the lease deeds, Exhibits P-13 (a) and P-15 (a) executed by accused 1. Besides that none you have till now neither entered nor effected improvements in the scene of occurrence. What do you say regarding this?

A.—What P.W. 6 says is false. This plot is the plot where I too joined in the cultivation since three years.

Q.—P.W. 15 (talayari Ambu) and P.W 20 (krishna Nayar) (brother-in-law of Kora Nayar) say that the well and the channel in the scene of offence were dug by Perundatte Kora Nayar. father-in-law of the deceased and that as he did not get water he entered upon the plot adjoining the scene of offence and living to the north of the road and began to live there. After the death of the said Kora Nayar his children and others are residing even now. What do you say regarding this?

A.—What they say is false.

Q.—It is seen from Exhibits P-6 and P-22, that Aisamma's plot is close to the southern boundary of the plot of 6 acres by the side of the road. P.Ws. 1, 7, 8 and 17 say that to the south of this scene of offence there is only forest and not the plot (garden) of Aisamma. What do you say regarding this?

A.—What the witnesses say is not correct.

Q.—P.Ws. 1; 2, 3, 7, 8, 14, 15, 17, 18, 19 and 21 say, that about three months prior to the day of occurrence (19—5—1952) the deceased and P.Ws. 1 and 2 began to work in the scene of offence cleared the forest and built the house, planted props of Hongaraka tree for the pepper vines, planted tapioca and near the house planted plantain trees and the deceased, P.Ws. 1, 2, 3 and 19 also began to live in the house. What do you say regarding this?

A.—What they say is not correct.

Q.—The above stated witnesses also say, that you or any of you neither entered the said plot nor effected improvements, etc. What do you say regarding this?

A.—What they say is not correct.

Q.—It is seen from the evidence of P.Ws. 4 and 5, that the letter, Exhibit P-2, was written by P.W. 4 on behalf of accused 1 who delivered it to P.W. 5 and requested P.W. 5 to give the scene of occurrence to him for which P.W. 5 replied that it was in the possession of others and not possible to give. Some days later P.W. 5 wrote a reply to P.W. 4, which P.W. 4 read and gave it to accused 1. What do you say regarding this?

A.—I do not know about this.

Q.—It is seen from the complaint, Exhibit P-37, given to P.W. 22, Hosdrug Station-house Officer, by your brother, accused 2, that the deceased P.Ws. 1 2 and others built a house in the scene of offence and were living in it about 1-1/2 weeks before the offence. It is seen from the evidence of P.W. 14 (potail) and P.W 22 (Station-house Officer). that you neither complained to the potail nor to the Police about this, and that either before or after that you did not complain that they neither trespassed nor effected improvements either in the scene of occurrence or on any of your plots. What do you say regarding this?

A.—I do not know anything about this.

Q.—It is seen from the evidence of P.Ws. 10 and 23, that Exhibit P-23 is the letter in accused 1's letter head paper in his own handwriting bearing his signature addressed to P.W. 10, Keshava Kamthi. What do you say regarding this?

A.—I do not know anything about this.

Q.—It is seen from the evidence of P.Ws. 10, 17 and 21, that on 19—5—1952 at 2-40 p.m. accused 1 stopped near the scene of occurrence the Panathadi Hosdrug Bus driven by P.W. 21 and gave to him Exhibit P-23 to be delivered urgently to P.W. 10, that P.W. 21 could not deliver the said letter to P.W. 10 on that day and gave it to P.W. 17 on the following day at 9-30 o'clock for delivering it to P.W. 10 and that P.W. 17 delivered the said letter on 20—5—1952 at about 10 a.m. at his office. P.W. 10 says that he received the said letter. What do you say regarding this?

A.—I do not know anything about this.

Q.—It is seen from the evidence of P.Ws. 22, 10 and 13, that Exhibit P-23 was seized under Exhibit P-24 by P.W. 22 from P.W. 10 on 23—5—1952 at 2 p.m. on the presence of P.W. 13. What do you say regarding this?

A.—I do not know anything about this.

Q.—Accused 1 wrote in Exhibit P-23 as follows :— " To-day we would do our tapioca planting work, build a house and reside in it. Others are residing only in another house. To-day in the evening 10 Moplas should be sent from somewhere after sending for them through that Soopi or with others. This is very urgent. You must ascertain in the morning either personally or by sending some other person as to what has happened here. (We) have to fight for justice. Besides he had written : " To-day and tomorrow it is not possible for me to come that side. In future if it is possible for us to see let us see personally." What do you say regarding this?

A.—I do not know anything about this.

Q.—P.W. 25 says, that accused 1 s signature in Exhibit P-23 is just like accused 1's signatures in Exhibit P-44 signed by accused 1 in the presence of P.W. 25, Chandu Nayar, clerk under P.W. 4. P.W. 7 says, that accused 1's Malayalam handwriting and signature in Exhibit P-30 was made in his presence. The writing and signature in Exhibit P-35 looks like the writing and accused 1's name, i.e., P. T. Kuriyakose, written in Malayalam in Exhibit P-23. What do you say regarding this?

A.—I have nothing to say regarding this.

Q.—P.W. 10 says, that accused did not come to the house of P.W. 10 either on 19—5—1952 or on 20—5—1952 and that accused 1 never saw him. What do you say regarding this.

A.—I do not know anything.

Q.—P.Ws. 1, 2, 3, 18, 19 and 21 say, that on 19—5—1952 in the morning at about 10 o'clock you, accused 1, and 2 and about 30 persons entered on the scene of occurrence and dug the bottom of the tapioca plants and began constructing a hut with the materials brought by the deceased for constructing a cattle-shed. Then when the deceased objected to it, you and others frightened him. Later the deceased went to P.W. 8 to complain about this and returned after complaining. Later you proceeded with your work. The deceased and others being afraid of you remained quite. In the evening you and others brought your household articles. Your women were not with you. There was a petromax light in your hut. There you did not cook. Apart from you there were along with you, your men who had come for work. What do you say regarding this?

A.—What the witnesses say is false.

Q.—It is seen from the evidence of P.W. 22 that when he visited your house 3 furlongs away from the scene of offence and inspected the condition there, he found that there was no necessity for you to build a house on 19—5—1952 and reside there with women. What do you say regarding this?

A.—The opinion of the Sub-Inspector is not correct.

Q.—It is seen from the evidence of P.W. 21 that on 19th May 1952, P.W. 21's bus went out of order (bus which ought to halt at Panathedi in the night) and on that day evening the bus was late and while starting from Kotecheri it was about 2-30 o'clock in the night and while reaching Panathadi it was 4—4-30 o'clock when he reached the scene of offence he saw the petromax light in the scene of occurrence and did not notice anything special there What do you say regarding this?

A.—What he says is false.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3 and 19, that after the bus went towards Panathadi you accused 2 and 1 went in front of the house of the deceased, and P.Ws. 1, 2, 3 and 19 while they were asleep inside the house at about cock-crowing time, that accused 1 called out to the deceased and woke them up and asked them to quit the house. On their declining to quit, accused 1 on telling that he would make them quit, got country torches tied up lighted it and with it accused 1 set fire to the eastern portion of the deceased's house and that you and accused 2 set fire to the southern portion. What do you say regarding this?

A.—What they say is false.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3 and 19 and from the evidence of P.W. 18 who was staying in the house of Perundatte Kora Nayar to the north of the road and working in P.W. 17's pepper garden adjoining the scene of occurrence and who on hearing the cries at that time came to the road and looked, that when the house was set fire the inmates of the house came out and raised cries and stayed under a tree, north-east of the house. As soon as the roof of the house fell down, the deceased, behind him P.W. 2, behind her P.W. 1, and behind him P.Ws. 3 and 19 went towards the burnt house to find out whether they could recover any articles. When they reached near the house accused 1 asked them whether they would not go away still for which the deceased replied that they would not go away from their place. What do you say regarding this?

A.—What the witnesses say is false.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3, 18 and 19 that when the deceased said that he would not vacate the plot, accused 1 aimed a stab on the chest of the deceased with the knife which was in your hand which blow the deceased warded off with the hand. Then the deceased ran to the north-west out of fear. Then accused 1 chased him. He triped and fell with face downwards. Then you stabbed at his back, where he had fallen. What do you say regarding this?

A.—These are false.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3, 18 and 19 that when the deceased ran as soon as accused 1 stabbed him, P.W. 2 ran after him raising an alarm and you chased her and stabbed five, eight, ten times with the knife. P.W. 1 who ran behind P.W. 2 was stabbed with a knife by accused 2. P.Ws. 1 and 2 fell down there due to the injuries. P.Ws. 3 and 19 on seeing this got frightened and ran towards the road. What do you say regarding this?

A.—All these are false.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3, 18 and 19 that later you and accused 2 pulled down your shed, removed its materials a little to its north, set fire and burnt them. At this time accused 1 was not to be seen anywhere in that place. What do you say regarding this?

A.—I never did like that.

Q.—It is seen from the evidence of P.Ws. 1, 2, 3, 8, 18 and 19 that neither P.W. 8 nor the deceased nor P.Ws. 1 and 2 nor others pulled down the shed built by you on that day set fire to it and quarrelled with you. What do you say regarding this?

A.—P.W. 8, Thambiran's some men and several Harijans also trespassed into the plot in our possession and our house was burnt to ashes by them. In this rioting they gave us bodily trouble.

Q.—It is seen from the evidence of P.W. 21 that on 20th May 1952 in the morning at about 7.15 when P.W. 21 was coming from Panathadi in the bus, (he saw) at the scene of offence, two houses burnt, the deceased, and P.Ws. 1 and 2 lying injured at the scene of offence, you and accused 2 and two women sitting on one side and that, according to his estimate the offence must have been committed about 2 hours before he reached there. What do you say regarding this?

A.—I was injured and fell down unconscious. The opinion of P.W. 21 is not correct.

Q.—It is seen from the evidence of P.W. 15 that at about 9-30 o'clock when P.W. 15 talayari came to the scene of offence and looked at the injured persons he found you and accused 2 injured not to such an extent as to make you unable to walk the deceased dead and P.Ws. 1 and 2 lying unconscious due to the injuries. It is seen from the evidence of P.W. 14 that later P.W. 15 gave the statement Exhibit P-25, before P.W. 14 who after sending Exhibit P-25 with the report Exhibit P-26 to the Police station and Sub-Magistrate through another talavari, went to the scene of offence and noticed the particulars at the place and made arrangements to send the injured persons to the Hosdrug hospital. What do you say regarding this?

A.—What P.W. 15 says that I could walk is not correct. I do not know at all of his having gone to the potail. Potail came to the scene and sent us to the hospital.

Q.—P.W. 22 says that he saw the injured persons in the bus, questioned them, came to the scene, saw the deceased and prepared the inquest report, Exhibit P-27, over his dead body, inspected the

scene on the morning of 21—5—1952 and prepared the observation yadast, Exhibit P-28. What do you say regarding this?

A.—On the way (we) saw the Sub-Inspector and accused 1. Rest I do not know anything.

Q.—It is seen from the evidence of P.W. 22 that the foundation of the house in which the deceased was living was older than the foundation of the shed alleged to have been built by you. In the scene of offence there were neither cashewnut plants nor stumps. The Hongarakana crops planted for planting pepper vines have just sprouted in the scene of offence. They were 6 feet in height. Tapioca and plantain plants have been planted. What do you say regarding this?

A.—The deceased has neither built the house nor planted plantain plants, etc., there. Therefore the Sub-Inspector's opinion is not correct.

Q.—It is seen from the evidence of P.W. 22 that he seized M.Os. 13 to 17, etc., properties from the foundation of the deceased's house, that they had signs of having been burnt by fire and that the properties M.Os. 18 to 53 seized from the foundation of the house alleged to have been built by you did not contain such signs. Besides in those articles such signs are not visible even though they are produced before the Court. Apart from these in the cot M.O. 55 seized from there signs of smoke having struck to it are visible and not the burnt signs. What do you say regarding this?

A.—The house in which myself, my mother and others were residing was pulled down (the articles) were put in front and set fire. On account of that all the articles in it were not stained with soot. As the house nearby was burnt as it was, the articles in it were stained with soot.

Q.—It is seen from the evidence of P.Ws. 22, 23 and 24 that P.Ws. 22 and 23 saw accused 1 for the first time after the occurrence on 21—5—1952, that accused 1 came to Hosdrug on 23rd May 1952 when the Circle Inspector came there, that accused 1 was arrested on that very day in the evening at 7-45 by P.W. 22 and that he arrested you and accused 2 at 7-30 and 9-15 o'clock. While you were arrested P.W. 22 seized M.O. 60 (knife). P.W. 22 seized M.O. 6 knife as per Exhibit P-32 from accused 2 on 20—5—1952 at the time of the complaint Exhibit P-37. It is seen from Exhibits P-42, P-43 and P-43 (a) that M.O. 6 was stained with human blood. What do you say regarding this?

A.—I have nothing to say.

Q.—P.W. 6 says that he recorded the statement (dying declaration) from P.W. 1, which is marked as Exhibit P-1. What do you say regarding this?

A.—What is stated in Exhibit P-1 is false.

Q.—It is seen from the evidence of P.W. 16 who conducted the autopsy on the dead body in the presence of P.W. 12 and from Exhibit P-29 that the injury on the right hand finger of the deceased could have been caused while trying to ward off the knife blow from the front, that the injury on the back and on the right leg could have been caused after the injured had fallen with his face downwards, that the deceased might have died due to the injury on the back and that the injured could not have proceeded after receiving the injuries. What do you say regarding this?

A.—I cannot say anything about this.

Q.—P.W. 9 says that he examined P.Ws. 1, 2, accused 2 and 3(?) and your mother Yeli and issued certificates, Exhibits P-17, P-18, P-19, P-20 and P-21. P.W. 11 says on perusing the hospital records that P.Ws. 1 and 2 were in the hospital as in patients for 25 days. It is seen from the evidence of P.Ws. 9 and 11 that Yeli had no injuries and that she was admitted in the hospital only for examination. P.W. 9 says that the injury item 3 (in Exhibit P-17) in the person of P.W. 1 was grievous and would be sufficient in the ordinary course of nature to kill a person of the age of P.W. 1 and that the injury in the left hand of P.W. 2 has rendered that arm permanently disabled. P.W. 2 also says in the Court by showing her hand that there is no strength even now to the left arm and is of no use. What do you say in this respect?

A.—Myself and accused 2 had injuries. My mother had pain. I cannot say anything about the injuries sustained by P.Ws. 1 and 2.

Q.—Have you anything else to say?
A.—No.

(Signed) Thommi

Certified that, etc.

(Signed) H. RAMESH RAO
Stationary Sub-Magistrate

12—8—1952.

[12(?)—8—1952.]

Q.—Have you defence witness to be examined in the Sessions Court?

A.—Yes.

(Signed) Thommi.

Certified that

(Signed) H. RAMESH RAO,
Stationary Sub-Magistrate

14—8—1952

Examination of the third accused.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of the *Examination of the third accused.*

Name—Thomman. Father's name—Thomman. Village Panathadi. Taluk—Kasaragod. Caste—Syrian Christian. Calling Cultivation. Religion—Christianity. Age—23 years.

Date, 29—11—1952.

Q.—You have heard the statement Exhibit P-29, made by you before the Committing Magistrate being read over and explained to you. What do you wish to say?

A.—Exhibit P-29 is a correct record of what I have said in the lower Courts. I am innocent. I have heard accused 1 and 2 make the statements and have nothing more to say.

For three years the land was in our possession and we had raised crops in it and also built a house on it. The deceased was never in possession. We were not permanently residing in the hut but only while we were working on the land. We were permanently residing in another house about 3 furlongs away.

Two days before the occurrence in our absence P.W. 18 trespassed on the land and installed the deceased and his people in our hut. So on the 19th we put up another hut near by with materials we had already collected for building a new hut. Accused 2 and his wife and children and myself and my mother moved into the new hut on the 19th taking household articles with us. There was no petromax. At about 5 p.m. on the 19th, accused 1 left for Hosdrug. At about midnight P.W. 18 came there with a number of men more than 50 strong. We got frightened. Accused 2 swooned and fell down. P.W. 18 and his men ordered us out of the house. We refused to go. Then they began pulling down the hut. They also dragged us out and pushed us down into the road. My mother was not dragged out but when they cut down the posts of the hut she came out. Then they burnt the materials of the hut and also threw some of our belongings into it. From the fire the old hut also caught fire and burnt down. We went to our permanent house. At about 7 in the morning myself and accused 2 and my mother returned to the scene to take our properties. P.Ws. 1 and 2 and the deceased and others about 12 strong came rushing at us with sticks knives, etc. The deceased beat accused 2 and then stabbed him with a knife. Accused 2 warded off the blow with his hand and then there was a

scuffle between them. Then the people surrounded us. I ran towards accused 2. Some one beat me on the head with a stick. I fell down dazed. I do not know what happened after that. I regained consciousness only after a long time. Then I saw that I had suffered stab wounds also. Accused 2 also had stab wounds. He was lying on the ground and my mother was near him. I went and lay there. The deceased and P.Ws. 1 and 2 were also lying on the ground. In the afternoon accused 1 came with the patel (P.W. 11) and others. Accused 1 went to Hosdrug to fetch a taxi to take us to hospital. In the evening myself and accused 2 and our mother were put in a bus and taken to Hosdrug. P.Ws. 1 and 2 were also in it.

This is what actually happened. We committed no offence. I stabbed nobody. The evidence of P.Ws. 1, 2, 3, 5 and 8 that I stabbed P.W. 2 is false. The entire prosecution evidence is false. As my brothers have said the Nileshwara Raja and other big people of the locality have joined together and cooked up this false case against us and got the prosecution witnesses who are their dependants and tenants to give false evidence.

Q.—Have you any defence witnesses?

A.—Yes. My vakil will examine them.

(Signed) Thommi.

I Certified that the examination of the accused was taken by me and that the record contains a full and true account of the statement made by him. It has been interpreted to him and admitted by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

D.W. 1.

(29—11—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of first witness for defence

Name—Fr. Simon. Father's name—Stephonds Village—Panathadi. Taluk—Kasaragod. Caste—Indian Christian. Calling Priest. Religion—Roman Catholic Christian. Age—33 years. Solemnly affirmed in accordance with the provisions of Act X 1873 on the day of 29th day of November 1952

I belong to Kottayam in Travancore. I am now living in Panathadi where I am the Assistant Parish Priest of the Roman Catholic Church for the past three years. I know the three accused

who are my parishioners. They have a good tiled house about 2½ furlongs from the church. I live in Malukkal. About four furlongs east of my house on the way to Panathadi just south of the road and above it there is a plot of land which accused 1 has been cultivating for as long as I have been there (i.e., nearly three years) with tapioca, etc. Last year he grew ginger. Once or twice I have gone into the property. There was a thatched hut in the land. This land is just east of the land held on marupattam by one Kuduthodu Joseph another of my parishioners. I have often gone past the land which accused 1 was cultivating. On these occasions I have seen accused 1 and 2 and their people working on the land.

In January 1951, I went to this land of accused 1's to make inquiries for tapioca sticks for planting. Two years ago I was called to the land because accused 2 was seriously ill. When I reached there accused 2 was brought out by some others and taken to their puccä house. So I did not enter the hut then.

One Monday in May at 11-30 p.m. when I was praying in my room I heard cries and shouts proceeding from the east. I came out and stood on the verandah. For about half an hour there was a lot of noise. Then I saw a big fire in accused 1's land. When that fire subsided there was another big fire. Then everything was quiet and I went to bed. At about 7 or 7-30 a.m. after mass I heard that there had been an affray in accused 1's land and that people had been stabbed.

Cross-examination.—There was a Court case between accused 1 and some other Syrian Christians over the slaughter of a cow. I do not know if it was compromised. It is not true to say that I compromised the case. I cannot say whether that case was compromised after the present occurrence.

The Bishop of Kottayam came to Panathadi towards the end of October and stayed there for a week. The Travancore settlers in Panathadi have formed a colony called the Rajapuram colony. It was found by Professor V. J. Joseph. Prof. Joseph last came to Rajapuram about three months ago.

It is false to suggest the Bishop or Professor Joseph came there to see that somehow the accused were helped out of this case or that I am giving evidence at their instance. But I took the permission of the Kottayam Bishop to give evidence since that is required by our rules. Territorially Panthadi Parish is in the jurisdiction of the Bishop of Mangalore but since the priests are sent by the Bishop of Kottayam (since the Catholic population is

Malayalee), we are under his control. The Diocess of Kottayam owns 900 acres of land in jenm right in Rajapuram. The land was bought from one branch of the Nileshwar kovilagam.

Tapioca is grown extensively in Rajapuram colony. When I made inquiries I heard that accused 1 had some surplus cuttings in his land. So I went there to make inquiries. People are reluctant to give cuttings. So I thought it better to go and ask rather than send for accused 1.

I knew the big blaze was from accused 1's land. Neither that night nor next morning did I go there or send any one to find out what the matter was. But it was only after the morning mass at about 7-30 a.m. that people told me what the blaze was about.

That day I was very busy and it was late when I went to bed. When I heard the commotion I looked at my watch and it was exactly 11-30 p.m.

Some of my parishioners told me after the morning mass about the affray. I cannot say who they were. They told me that accused 2 and 3 and their mother had been injured. I was told that the injuries were not so serious as to endanger life. So I did not go. I did not want to go and get involved in the case as a witness.

Usually in cases of hurt, etc., we priests keep aloof unless any of our parishioners is so seriously injured as to require the last sacrament. In this case no one sought my help and I took no interest in it.

Some one on behalf of the accused asked me if I would give evidence. I said I would state what I knew provided the bishop gave permission.

I know the patel, P.W. 1.

Re-examination.—Nil.

(Signed) Simon (illegible).

Taken down by me in open Court, and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,

29—11—1952 *Sessions Judge.*

D.W. 2.

(29—11—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of second witness for defence.

Name—Sri N. K. Nambiyar. Father's name—P. Kelu Nair. Village—Hosdrug. Taluk—Kasaragod. Caste—Nair. Calling—Lawyer. Religion—Hinduism. Age—49 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 by Sri B. M. Shetti, Translator, District Court, South Kanara, on the 29th day of November 1952. 10

I am an advocate practising in Hosdrug. About a week before the re-opening of the Court on 19—5—1952, accused 1 came to my house accompanied by P.W. 15. On 20—5—1952 some time between 8 a.m. and 10 a.m. P.W. 15 came to my office. I do not recollect having seen accused 1 with him. When they came to me on the 12th May or so accused 1 and P.W. 15 showed me some documents and consulted me regarding some road side property in Panathadi. On the 20th morning P.W. 15 told me that the house on that property had been set fire to. I asked him to go and consult some criminal lawyer. For the past five years I have not been taking up criminal work.

Being a working day soon after the re-opening there was a big crowd in my office and I cannot say whether or not accused 1 was with P.W. 15 when he came on the 20th May. I do not remember having seen him.

Cross-examination.—Nil.

(Signed) N. K. Nambiar.

Taken down by me in open Court, and read over to the witness, and acknowledged by him to be correct. 20

(Signed) P. T. RAMAN NAYAR,

29—11—1952. *Sessions Judge.*

(True copy)

D.W. 3.

(29—11—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of third witness for defence.

Name—Sri K. V. Ramunni Nair. Father's name—Kandunni Menon. Village—Ayalur. Taluk—Palghat. Caste—Nair. Calling—Clerk, Taluk office, Hosdrug, now on leave. Religion—Hinduism. Age—54 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 by Sri B. M. Shetti, Translator, District Court, South Kanara, on the 29th day of November 1952.

In May 1952, I was Firka Supply Officer, Hosdrug. Now I am on leave. I know accused 1. He was the keeper of the Rajapuram ration shop.

On 20—5—1952, I was going from Hosdrug to Belur village for inspection of the ration shop. I left Hosdrug at about 8-30 a.m. in a lorry which was taking rice to Rajapuram ration shop. About a furlong from Hosdrug accused 1 stopped the lorry and boarded it. He told me that he was going to Panathadi village that he had heard that his house in Panathadi had been set fire to and that he was going to the patel to report about it and take the patel to the scene. I got down at Avvanvankavu about 9 miles from Hosdrug and the lorry proceeded with accused 1 on it. He told me that the house had been set fire to during his absence at Hosdrug the previous night. All this he told in answer to my questions where he was going and where he was when the offence took place.

Cross-examination.—I do not remember whether accused 1 had a cycle with him when he stopped lorry. I do not remember whether he put the cycle inside the lorry. Accused 1 was looking tired.

Re-examination.—Nil.

(Signed) K. V. Ramunni Nair.

Taken down by me in open Court, and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,

29—11—1952. *Sessions Judge.*

(True copy)

D.W. 4.

(20—11—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952

Deposition of fourth witness for defence:

Name—Sri Anduka. Father's name—Muhammad. Village—Panathadi. Taluk—Kasaragod. Caste—Islam. Calling—Cultivation. Religion—Islam. Age—31 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the day of 29th day of November 1952.

I live in Kallar in Panathadi. My father's name is Kallar Mammad. I know the locality called Chennakad which is about 1½ miles north-east of my house. There my father had lands which he got on marupattam for 40 years from the Nileshwar Thekke Kovilagam. Exhibit P-21 is the marupattam deed executed by him. There were two items in it. My father got the lands under Exhibit P-21 about 19 years ago and he was in possession of the lands till his death four years back. After my father's death I assigned the leasehold rights in item 1 in Exhibit P-21 to accused 1. I executed a registered deed—Exhibit P-16 is that deed—in Medam or Edavam last. But three years earlier I had put accused 1 in possession of the property on an oral lease under which he was to grow tapioca, etc., on the land and pay me Rs. 50 a year. Ever since then the land has been in his possession. Two years accused 1 cultivated the land under the oral lease. Then he wanted an assignment. I agreed to assign the land to him for Rs. 600 and accordingly I executed the agreement, Exhibit D-9 (in which my mother and sisters and brothers joined) in his favour. Accused 1 paid me Rs. 200 at the time of Exhibit D-9 and it was understood that we should execute an assignment in his favour when he paid the balance of Rs. 400. In Medom last he paid us the balance and we executed Exhibit P-16 in his favour.

I know the land where the occurrence took place. That is the land which is item 1 in Exhibit P-21 and which accused 1 has been in possession of for the past three years under the oral lease, then under Exhibit D-9, and now under Exhibit P-16.

When my father got the land under Exhibit P-21 it was covered with forest. My father cleared the land two or three years after he got it, raised crops there and built a house. He dug a well. He also dug a thodu to bring water from a bunded up stream

in the land to the west of it. He also raised paddy crops in portions. For about a year we lived on the land. Then when my father fell ill we went back to our old house but were raising paddy horsegram, etc., on the land from year to year.

Under Exhibit P-21 the Nigudi Porrapad payable was Rs. 6-9-0. After accused 1 got into possession he was paying Rs. 6-9-0 every year to P.W. 18 and obtaining receipts in my name. Of this Rs. 1-8-0 was due from his land (item 1 in Exhibit P-21) and the balance on item 2 of Exhibit P-21 which we retained. He would show me the receipts after payment and adjust the sum of Rs. 5-8-0 paid for item 2 from the rent due from him.

Until Kumbhom last I was going often to the land. Accused 1 and his brothers and their people used to be working on the land. They were raising tapioca, ginger, turmeric and had also planted Murikku props. No Nair was ever in possession of the land.

I know P.W. 14's pepper garden. It is just east of this land in accused 1's possession where the occurrence took place. North of the occurrence land is the Hosdrug Panathadi Road. West is the Raja's land in the possession of Kaduthodi Joseph on marupattam. South is my mother's marupattam land and the Raja's forest.

Cross-examination.—The agreement, Exhibit D-9, was executed in Hosdrug about 1½ years ago. It was written by a Kongani document-writer in Hosdrug on stamp paper supplied by the document-writer himself. It was the same document-writer that wrote Exhibit P-16. It is false to suggest that Exhibits P-16 and D-9 were written on the same day at the same time. It is false to say that Exhibit D-9 came into existence only in April 1952 and that it was I myself that paid the Nigudi Porappad under Exhibit P-22 and obtained the receipt. The receipts obtained by accused 1 in my name do not show that the payments were made by him. His name does not appear in them. For the three years in which accused 1 cultivated the land varam was payable by me to the jenmi since I was collecting the entire rent from accused 1. I did not pay the varam since the kariyasthan did not come and demand it. Item 1 of Exhibit P-21 which I gave accused 1, namely, the occurrence land, is 6 acres in extent. My mother's pepper garden adjoins it to the south. There was a hut on the occurrence plot when I assigned it to accused 1. Also when I executed Exhibit D-9. It was built by accused 1 after he took the

plot on oral lease. When I gave it on oral lease there was no hut there. The hut was not mentioned in Exhibit D-9 or Exhibit P-16 because it was not ours and had been built by accused 1.

In Exhibits P-9 and P-16 the boundaries shown in Exhibit P-21 were copied. It did not occur to us to give the present boundaries.

It is not true to say that the land given by me to accused 1 is not the occurrence plot but the land east of P.W. 14's land. It is the land west of P.W. 14's land.

I know P.W. 15. He had nothing to do with Exhibits D-9 and P-16 and took no part in the negotiations. 10

Re-examination.—The land east of P.W. 14's land is partly forest in the Raja's possession and partly marupattam land in the possession of one B. Hassanare.

(Signed in Malayalam) Mudukka.

Taken down by me in open Court, and read over to the witness, and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

29—11—1952. 20

(True copy)

D.W. 5.

(3—12—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of fifth witness for defence.

Name—Poulose. Father's name—Omappan Nambiar. Village—Hosdrug. Taluk—Kasaragod. Caste—Indian Christian. Calling—Teacher. Religion—Roman Catholic Christian. Age—60 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd December 1952, by Sri B. M. Shetti, Translator. 30

I am a catechist of the Catholic church at Kanhangad for the past 14 years. I know accused 1 for the past five or six years. On 20—5—1952 at about 4 p.m. I heard about this occurrence from people who came for Panathadi side. That morning at about 6, I saw accused 1 in the Kunhangad church. He came to church at 6 a.m. thinking there would be a mass. But that day because the priest was absent there was no mass. About 10 or 12 persons had gathered there including myself and we all joined together and said prayers for about half an hour. After prayers accused 1 asked

me where the priest was. I said he was away at Vallal. Then he said that he would go away since there would be no mass. I asked him where he was going. He said he was going to his vakil. Then he left the place. It was about 6-30 a.m. when he left.

Cross-examination.—He did not tell me to which vakil he was going. I did not ask him. I did not ask why he was going to the vakil. One Joseph, another Joseph, Sala Maistri and three or four women and five or six children were in the church that day. At 6 a.m. every day there are prayers in the church. The mass is only at 7 a.m. I attend the prayers and mass every day. I remember the date because I know that the priest left for Vallal the previous day, i.e., on Monday the 19th. I remember about accused 1 coming because I heard of the occurrence that afternoon.

Last month our Bishop came from Kottayam. He was at our church only for a short while. He never spoke to me about this case. It is not true to suggest that the Bishop has asked me to help the accused. He never spoke to me about them.

Before that accused 1 has come to our church many times. He comes there whenever he comes to Kanhangad. I cannot give the dates of his previous visits. I have no pay. The church only pays my expenses. I get presents from the members of the congregation.

It is false to say that I am deposing falsely in this case or that I have been bribed to depose.

Re-examination.—Nil.

(Signed in Malayalam) Poulose.

Taken down by me in open Court, and read over to the witness, and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

3—12—1952.

(True copy)

D.W. 6.

(3—12—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of sixth witness for defence.

Name—Pokumba Mathai. Father's name—Mathai. Village —Panathadi. Taluk—Kasaragod. Caste—Syrian Christian. Calling—Cultivation. Religion—Indian Christian. Age—52 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of December 1952.

I live in Malokkal in Panathadi village about a furlong west of the locality known as Cherrakkad. I have been living there for the past eight years. I know the occurrence plot. It is in Chennakkad just south of the Panathadi road. To the west of it is the house and land of one Kaduthodi Joseph. To the east is the pepper garden of driver Ananda, P.W. 14. For the past three years the occurrence plot has been in the possession of accused 1. Before that it was in the possession of a Moplah called Muhammad, the father of D.W. 4. I have some land east of the occurrence plot. I visit that property every day and so pass by the occurrence land daily. The accused have for the past three years been growing tapioca, plantains, jack trees, ginger, turmeric, etc., in the land. They have also planted Murikku props for pepper vine. They also built a hut in which they used to live while they had work on the land. Mostly I used to see accused 2 and his wife in that hut.

One Monday night in May 1952, I was sleeping in my hut in land east of the occurrence plot. I had been working on that land that day and when I have work there I usually sleep there. The land is about a furlong from the occurrence land, on the northern side of the road just opposite P.W. 14's land. At about midnight I heard a commotion in accused 1's land. People were shouting "Get out" and also using bad language. I went along the road and stood on the road opposite the occurrence plot. I saw about 50 persons in accused 1's land. I was able to recognise P.W. 18, Talasseri Koman Nair and watcher Raman among them. Also the deceased and P.W. 1. The rest I was unable to make out. These persons pushed down a new hut put up by the accused earlier that day and set fire to the materials. From this fire the old hut nearby caught fire. A little to the south of the burning hut I saw accused 2 and 3. I also heard their mother's cries. I did not see

accused 1 there. On seeing all this happen, I ran to accused 1's permanent house about 2 furlongs to the west. Accused 1 was not at home. His sister and some children were there. I told them what had happened. I learned that accused 1 had gone to Kanhangad and they asked me to go to one P. Mani and ask him to carry the news to accused 1. Accordingly I went and told Mani what had happened. Mani left for Kanhangad and since it was late in the night I stayed in his house for the night.

Cross-examination.—I am in no way related to accused 1. His wife is not my wife's sister. They are not related in any way. The accused had only planted props on the land. They have not planted pepper vine yet. East of P.W. 14's pepper garden is forest belonging to the Nileshwara Raja. I do not know when the deceased occupied the hut in the occurrence land. I was told that he occupied it on Sunday. On Sunday I had not been that way. I had gone to Echikolu church. I went that way on Saturday. Then I did not see the deceased or P.W. 18 there. Nor was accused 2 or his wife there. When I left the place on seeing the house on fire accused 2 and 3 were standing in the land. I do not know what they did thereafter. I was afraid of the big crowd and did not dare to go to the help of accused 2 and 3 or to go and ask them how it had all happened. Mani's house is in Echikol about 3 miles west of accused 1's permanent house. The patel of Panathadi lives in Odyanchal 3 miles or more from Echikol. The patel's house is by the side of the main Hosdrug road. Because I was tired I did not go to the patel. I did not ask Mani to go and report to him since I did not know that that was necessary. I asked him only to inform accused 1 who was the owner of the property.

It is false to say that my evidence is not true and that I along with the accused and many others trespassed on the property on the 19th and put up a new hut there. It is false to say that I was a supporter of the accused or that they set fire to the house. Or, that I was present when the deceased and others sustained injuries. It is false to say that I was a supporter of the accused in committing any offence or that that is why I did not go and report the occurrence to the priest or the patel or the Police. I did not see P.W. 3 or P.W. 5 at the scene when the house was on fire. I do not know if any of the accused's properties were burnt.

About a month ago our Bishop came to our colony. It is false to say that he asked us to help the accused. He did not speak about this case at all. The accused and myself are members of the

Rajapura colony in which there are about 200 families of Syrian Christian settlers from Travancore. It is not true to say that the members of the colony are subscribing for the cost of the defence.

Re-examination:—Nil.

(Signed in Malayalam) Pokumbā Mathai

Taken down by me in open Court, and interpreted to the witness, and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
3—12—1952. *Sessions Judge.*

(True copy)

D W 7

(3—12—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of seventh witness for defence.

Name—Mani. Father's name—Thomas. Village—Panathadi. Taluk—Kasaragod. Caste—Indian Christian. Calling—Cultivation. Religion—Roman Catholic Christian. Age—38 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of December 1952, by Sri B. M. Shetti, Translator

I live in Echikol about 3 miles west of Chennakkad in Panathadi village. I am a member of the Rajapura colony. Accused 1 is my wife's sister's husband. I know accused 1's land in Chennakkad just south of the road, east of Koduthodu Joseph's land and west of driver Ananda's (P.W. 14's) pepper garden. For the past three years that land has been in accused 1's possession and the accused were raising crops there. They also put up a hut in the land in which accused 2 used to live when there was work there.

On the night of a Monday about six months back after midnight P.W. 6 came and woke me up and told me that accused 1's Chennakkad hut had been set fire to by P.W. 18 and his men. He asked me to go to Kannangad and inform accused 1 about this. I went to Kannangad. I walked the distance of 14 miles and reached Kunhangad at daybreak. I met accused 1 coming out of the church and told him what had happened. We went to a vakil and after that accused 1 left saying that he was going to report to the patel. Then I returned home.

Cross-examination.—P.W. 15 did not come with us to the vakil. I did not see him. We saw the vakil. It was about 6-30 or 7 a.m. then. The Panathadi Patel's house is about half a mile from the road along which I went to Kannangad to report the matter to accused 1. I did not know where the acting patel was living. I knew only the permanent patel's house. So I did not think of reporting to the patel. I did not see any bus on my way to Kanhangad. After seeing the vakil we did not go to the Police station. I went to Kumbleh to take the bus to house. Accused 1 stayed behind in Hosdrug saying that he would catch a lorry or some such conveyance and go east to Panathadi. Accused 1 had no cycle with him. We did not go to P.W. 15's house that day. I was going to the church thinking that accused 1 might be there when I saw him come out of the church.

Re-examination.—Nil.

(Signed in Malavalam) Mani.

Taken down by me, in open Court and interpreted to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR
3—12—1952. *Sessions Jud*

(True copy)

D.W. 8.

(3—12—1952.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 of 1952.

Deposition of eighth witness for defence.

Name—Veli. Father's name—Jomme(?). Village—Panathadi. Taluk—Kasaragod. Caste—Indian Christian. Calling—Cultivation. Religion—Roman Catholic Christian. Age—62 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 3rd day of December 1952.

I am the mother of the accused. We live in Malekkal in Panathadi village. The land in Shenmukkad where the occurrence took place is a little distance south-east of our house and is within ear-shot of it. For the past three years it has been in our possession. We cleared the forest and planted tapioca, turmeric, ginger, plantain as also murikku props for pepper vine. We also put up a hut in which accused 2 and his wife used to live while work was going on on the land. The land was in our undisturbed possession.

On a Sunday in Edavam last when none of us was in occupation of the hut in the occurrence land one of our servants came and told us that some one had entered on the land and had occupied the hut. So on Monday morning myself and the three accused went there with five or six coolies in order to hoe our tapioca plot in assertion of our possession. Then we found P.Ws. 1 and 2 and the deceased in occupation of our hut. Accused 1 asked P.W. 1 whether it was proper that he should trespass upon and occupy the hut in our possession and requested him to leave. He refused to leave, saying that he had been installed there by P.W. 18. We decided not to quarrel with him and so built a hut near our old hut so that we could live on the property in assertion of our possession. The hut was completed by evening and we removed our household articles to the hut from our house. Accused 2 and his family, and accused 3 and myself took up residence there. In the evening accused 1 left for Kanhangad saying that he wanted to consult a vakil about the trespass of the deceased and his people. That night we cooked our food in the new hut and went to bed there. P.Ws. 1 and 2 and the deceased were in our old hut. At about midnight we woke up on hearing shouts and cries. Then about 50 persons led by P.W. 18 entered on the land. Then they shouted abuse at us and dragged accused 2 and 3 out of the hut. They asked me and accused 2's wife and children to get out of the hut. We declined to. Then they pulled down the hut and put the materials in front of it and set fire to them. From this fire our old hut caught fire. Unable to bear the heat myself and accused 2's wife and children got out of the dismantled hut and taking accused 2 and 3 with us left for our house. When we reached home we learned that D.W. 6 had already reported the news there and had gone to D.W. 7 to send him with the news to accused 1.

Next morning after daybreak, myself and accused 2 and 3 returned to the scene in order to see what had happened to our belongings. When we entered the land the deceased and P.Ws. 1, 2 and 5 and about eight others came running from the deceased's wife's house across the road. The deceased rushed at accused 2 shouting "Get out, you son of a dog" and so saying stabbed him with a knife. Accused 2 warded off the blow. Then all of them surrounded him. Accused 3 ran up to him. Some one beat accused 3 on the head with a stick. Accused 3 fell down. A scuffle was in progress and I heard accused 2 cry out that he was being killed. I ran up to him. Some one beat me on the head with a stick. I fell down dazed. Then accused 3 got up. Immediately the deceased stabbed him twice. When I regained consciousness I found accused 2, 3, P.Ws. 1 and 2 and the deceased lying

fallen on the ground. No one else was there. Some time later my daughter came and gave us some water. In the afternoon accused 1 came there with P.Ws. 11 and 19. Then accused 1 left for Kanhangad saying that he would fetch a car to take us to hospital. Towards evening we were put in a bus and taken to the Kanhangad hospital. On the way the Police stopped the bus. Accused 1 brought the Sub-Inspector and head constable to the bus. They saw us. The Sub-Inspector questioned P.Ws. 1 and 2 and also accused 2 and recorded their statements. He did not ask me anything.

Cross-examination.—Accused 2 and his family used to stay in the hut for short periods whenever work was in progress. I also used to stay with them sometimes. On the close of the work we would move to our pucca house bringing our household articles and other belongings with us since the hut was not a secure place and had no proper doors. It was about four or five days before the deceased and his people trespassed and occupied the hut that accused 2 and his family moved back from the hut to our house. I do not remember whether they left anything behind. But I remember that there was a grinding stone and a coconut scraper (Chirva) of ours in the hut. On the Sunday preceeding the occurrence accused 1 was in our house. He did not go to Hosdrug that day.

I do not know P.W. 15.

When we went into residence in the new hut on Monday we took accused 1's box with us since my chewing materials were in

We built the new hut out of materials we had already stored since, even earlier we had decided to put up a better hut there.

It is false to say that I went to the occurrence land for the first time on Tuesday morning.

It is false to say that the deceased was in occupation of the land and hut for three months before the occurrence and that my sons went there and set fire to the house and stabbed the deceased and his people.

Just after the stabbing, etc., on Tuesday morning I saw a bus go westwards towards Hosdrug. I was not fully conscious and do not know if the bus stopped or if any one got down from it and came to the land. I was near accused 2 when the Sub-Inspector questioned him. He told the Sub-Inspector all that had happened. He gave a true and correct version of the occurrence.

I was beaten on the head with a stick. I told the doctor at Hosdrug hospital about it. He examined my head and had medicine applied but since there was no open wound no bandage was put.

Re-examination.—Nil.

(Signed in Malavalam) Yeli.

Taken down by me in open Court and interpreted to the witness and acknowledged by her to be correct.

(Signed) P. T. RAMAN NAYAR,
3—12—1952. *Sessions Judge.*

(True copy)

C.W. 1

(26—11—52)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 36 *of* 1952.

Deposition of first witness for Court.

Name—Sri M. K. Nambiyar. Father's name—Kodoth Kunhambu Naira. Village—Balla. Taluk—Kasaragod. Caste—Nair. Calling—Landlord. Religion—Hinduism. Age—35 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 26th day of November 1952, by Sri B. M. Sheth, Translator—District Court

I live in Hosdrug. I know accused 1 for the past two years. He used to come to my brother-in-law and borrow money from him. On 25—4—1952 he came and saw me at Hosdrug and wanted a letter from me to Ravi Varma Raja, nephew of the Senior Raja of Nileshwar. Accused 1 told me that there was a plot of land belonging to the kovilagam of which he (accused 1) was in possession and which the kovilagam kariasthan Kelu Nair was threatening to take by force. He told me that the land was in Malekkal in Panathadi village and that the Raja was the jenmi. Accused 1 told me that he had a leasehold interest in the land which he had recently bought from a Moplah and he also showed me some papers. I went through his sale deed and thought that what accused 1 said was true and accordingly gave him a letter to Ravi Varma Raja. Two days later I got a reply from the Raja. Accused 1 came to me again about a week later and I gave him the reply.

Cross-examined by prosecution:—Nil

Cross-examined by defence.—Exhibit D-2 is the letter I wrote to Ravi Varma Raja. From what accused 1 told me I believed that some glaring injustice was being done to him by the Raja's kariasthan, namely that the kariasthan was collecting men to dispossess accused 1 of his land by force. I expected that if force was used accused 1 would resist and that there would be a breach of the peace. In fact accused 1 himself told me that he would resist. So I wrote in Exhibit D-2 that unless immediate steps were taken I apprehended there would be a breach of the peace.

I have properties in Panathadi. I know the land where the murder took place. While passing along the road I have seen the land but I have not actually stopped and inspected it. I have never seen accused 1 or his men working on the land. I have seen accused 1 on the roadside by the side of the land but not actually in the land.

To Court.—I have seen the land while passing that way for two or three years but I particularly noticed it only after this murder took place. My recollection is that it was being cultivated with tapioca for the last two or three years—before that the entire area was jungle. On the northern side of the road portions of the forest have been cleared and holdings formed for the past seven or eight years. But it was only two or three years back that people began clearing plots on the southern side and cultivating them. I cannot say when exactly this particular plot was cleared. Only small portions on the southern side have been cleared and cultivated these last two or three years. I do not know who cleared this particular plot or who was in possession. I have no property in the vicinity. I have only passed through the locality by car and have never halted there.

(Signed) M. K. Nambiar.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

26—11—1952.

(True copy)

Exhibit P-1.

(*Dying declaration.*)

Dying declaration of Ambu Nayar, son of Raman Nayar, residing at Malekkal in Panathady village recorded at 12-30 midnight of 20—5—1952-21—5—1952 at the local fund hospital, Hosdrug

Q.—Where are you lying now?

A.—In the hospital or in the Court.

Q.—How did you sustain the injuries?

A.—Kuriya Kose who is a paddy measurer in the stores came along with his elder brother Onnan and it was Onnan who stabbed me with a knife.

Q.—What is the reason for stabbing? Where did he stab you?

A.—Myself, my son Kunhiraman, my daughter Vellachi and others are residing at a place called Malekkal in Panathady village, which plot belongs to the Nileswar Raja. Kuriya Kose and others wanted to get that plot for themselves. We had put up a cow-shed near our house. Yesterday Kuriya Kose and Onnan came along with some men and dismantled it. They heaped the materials of the cow-shed in the shape of a house and set fire to it. They also set fire to our house. We all stayed under a tree nearby. When the day dawned (morning of 20—5—1952) we returned to our place. Then Onnan, Kuriya Kose and Thommi came to us saying that we should not stay there. Onnan stabbed me with a knife. Kuriya Kose stabbed my son Kunhiraman with a knife. Thommi stabbed my daughter Vellachi with a knife.

Q.—What happened then?

A.—Kunhiraman died. Myself and Vellachi fell down there; we were wounded and injured.

Q.—Have you got to say anything more?

A.—We have planted nearly 1,000 pepper vines in Thampuran's plot. They contend that Kuriya Kose's people have planted them. We have also planted plantain trees and raised paddy cultivation there. It is two years since we are in possession of that property.

(Left thumb-impression of) Ambu Nayar.

Taken down by me, read over to the deponent and admitted by him to be correct. Certified that the deponent was conscious when the declaration was recorded and that he was in a condition to give rational and relevant replies to the questions put to him.

Hosdrug,
21—5—1952 (1 a.m.)

(Signed) P. K. ANANDAN NAYAR,
Sub-Magistrate.

Exhibit P-2.

(*Wound certificate.*)

(Original.)

Wounds or injuries found on the person of a male, calling himself Chevari Ambu Nair, son of Raman Nair, aged 60 years, and inhabitant of Malekallu Panathady who was sent with requisition from Sub-Inspector, Hosdrug, and accompanied by Police constable No. 710 for report as to certain injuries on his person said to have been caused on 20—5—1952 at dawn and to be due to violence with knife at Cheenakkadu, Malekkallu. Panathady Gram.

Identification and mete marks—

Thumb-impression of left thumb.

The injured person was first seen by the undersigned at 8 p.m. on the 20—5—1952 at Attenganam in bus and the examination was commenced at 1:15 a.m. on the 21—5—1952. When the following injuries were found :—

(1) Incised wound 1 inch long ¼ inch wide, 1 inch deep vertical on the back at the medial border of right scapula at the level of the spine of scapula.

(2) Incised 3 inches long, 2 inch broad, ¼ inch deep, placed traversely on the back of middle of left upper arm.

(3) Horizantal stabbing 1 inch long, ¼ inch broad reaching the chest cavity allowing entry and exist of air in posterior axillary line 4 inches below interior angle of scapula left side.

(4) Incised wound ¾ inch by ¼ inch by ¼ inch (?) right thumb on index finger side.

Nature.—Grevious No. 3; other injuries simple.

L.F.D.,
Hosdrug,
23—5—1952.

(Signed) Kesava Pai,
Honorary Medical Officer.

Exhibit P-3

Wound certificate.)

(Original.)

Wounds or injuries on the person of a female calling herself Bellachi, daughter of Ambu Nair, Chevari, aged 35 years, an inhabitant of Malekkallu Panathady who was sent with a requisition from Sub-Inspector, Hosdrug, and accompanied by Police constable No. 710 for report as to certain injuries on her person said to have been caused on 20—5—1952 at dawn and to be due to violence with a knife at Malekkallu Panathady village.

Identification and caste marks—

Raised mole at right shoulder just out side outer end of collar bone.

The injured person was first seen by the undersigned at 8 p.m. on 20—5—1952 on bus near Attengau and the examination was commenced at 11-45 p.m. at the hospital, Hosdrug, on 20—5—1952 when the following injuries were found :—

(1) Incised wound ½ inch long, ¼ inch broad, ½ inch deep at the outer aspect of middle of left upper arm.

(2) Incised wound 2 inches long, ½ inch broad, ½ inch deep on the palmal aspect of left hand placed horizantaly at the lower end of hypothenar(?).

(3) Incised wound at the back of the left wrist horizontal at the lower end of radius 1 inch by ¼ inch by ¼ inch deep.

(4) Incised wound between right and little-finger ½ inch long and ¼ inch deep.

(5) Incised wound 1 inch long by ½ inch broad by ½ inch deep at the back of right shoulder. horizontal.

(6) Oblique incised wound 1¼ inch long, ½ inch broad, ½ inch deep on the back 2 inches below angle of scapula on the left running from above downwards without inwards.

(7) Incised wound 3 inches long, ¼ inch broad, ¼ inch deep on the top of the head running backwards in the midline.

(8) Incised wound 1¼ inch long, ¼ inch broad and ¼ inch deep, 1 inch to the left of injury No. 7.

(9) Transverse incised wound ¼ inch long on the forehead 2 inches above the right brow ¼ inch by ¼ inch deep.

(10) Incised wound at the side of the head 5 inches above the right ear 1¼ inch long, ½ inch broad and ½ inch deep transverse.

The opinion is, simple.

L.F.D.,
Hosdrug,
23—5—1952.

(Signed) M. Kesava Pai,
Honorary Medical Officer.

Exhibit P-4.

(Wound certificate.)

(Original.)

Wounds or injuries found on the person of a male, calling himself Uthannan, P. T., son of Thomban, aged 27 years, an inhabitant of Adakkam Panathady who was sent with a requisition from Sub-Inspector, Hosdrug, and accompanied by Police constable No. 710 for report as to certain injuries on his person said to have been caused on 20—5—1952 and to be due to violence with a knife and billhook at about 8 a.m. at Channakad, Panathady village.

Identification and caste marks—

Birth marks 2 inches behind out supiliac spine left side.

The injured person was first seen by the undersigned at 8 p.m. on 20—5—1952 at Atenganam in bus and the examination was commenced at 12-15 a.m. on 21—5—1952, when the following injuries were found :—

(1) Incised wound 1 inch long, $\frac{1}{8}$ inch by $\frac{1}{4}$ inch deep on dorsal aspect in ulnar border of left wrist at the lower end of ulna.

(2) Oblique incised wound 1 inch long, $\frac{1}{4}$ inch broad, $\frac{1}{2}$ inch deep, cutting second phalynx of index finger on the left hand on the thumb side.

(3) An incised wound $\frac{1}{2}$ inch long by $\frac{1}{8}$ inch deep at the base of the 1st phalynx of the left thumb towards index-finger side.

(4) Abrasion marks 7 inches long oblique above downwards from left to right across the front of chest.

Nature.—Grievous No. 2; other injuries simple.

L.F.D.,
Hosdrug,
23—5—1952.

(Signed) M. Kesava Pai,
Honorary Medical Officer.

Exhibit P-5.

(*Wounds certificate.*)

(Original.)

Wounds or injuries found on the person of a male, calling himself P. T. Thomas, son of Thomban, aged 24 years, an inhabitant of Malekkalu Panathady village, who was sent with a requisition from Sub-Inspector, Hosdrug, and accompanied by Police constable No. 710 for report as to certain injuries on his person said to have been caused on 20—5—1952 at about 8 p.m. and to be due to violence with a stick on the head and knife on the lower limbs.

Identification and caste marks—

(1) Mole just in front of the middle of lobe of the left ear.

(2) Mole chest level of 2nd rib to the right of a border of brest bone.

The injured person was first seen by the undersigned at 8 p.m. on 20—5—1952 and the examination was commenced at 12-30 a.m. on 21—5—1952, when the following injuries were found :—

(1) Oblique incised wound 2 inches long, $\frac{1}{8}$ inch broad, $\frac{1}{8}$ inch deep, medial aspect of the right thigh 4 inches above knee without(?) inwards.

(2) Incised wound $\frac{3}{4}$ inch long just above the knee-cap of left leg $\frac{1}{8}$ inch broad and $\frac{1}{8}$ inch deep.

(3) Contusion $\frac{3}{4}$ inch by 1 inch nearly oval at the right temple.

(4) Contusion $1\frac{1}{2}$ inches by 1 inch nearly oval on the medial aspect of lower end of left ulna.

Nature of injury.—Simple.

L.F.D.,
Hosdrug,
23—5—1952.

(Signed) M. Kesava Pai,
Honorary Medical Officer.

Exhibit P-6

(*Wound certificate.*)

(Original.)

Wounds or injuries on the person of a female, calling herself Yeli, wife of Thomban, aged 56 years, an inhabitant of Malekkallu, Panathady, who was sent with a requisition from Sub-Inspector, Hosdrug, and accompanied by Police constable No. 710 for report as to certain injuries on her person said to have been caused on 20—5—1952 about 5 naligais after sunrise and to be due to violence with a stick at Channakkad.

Identification and caste marks—

Thumb-impression of left hand taken

The injured person was first seen by the undersigned at 5 p.m. on 20—5—1952 and the examination was commenced at 12-45 a.m. on 21—5—1952, when the following injuries were found :—

(1) Complains of pain above left wrist. No obvious contusion, or other injury seen.

(2) Complains of pain left side of back, all over. No obvious injury seen.

Nature of injury.—No injury seen.

L.F.D.,
Hosdrug,
23—5—1952.

(Signed) M. Kesava Pai,
Honorary Medical Officer.

Exhibit P-7.

(*Post-mortem certificate.*)

(Original.)

No. 6 of 1952.

Regarding the body of a male, aged about 25 years, named Kunhiraman Nair.

Requisition received at 11-40 a.m., on 21—5—1952 from the Sub-Inspector of Police, Hosdrug of Hosdrug with his letter No. nil, dated 21—5—1952.

Body in charge of P.C. No. 555, named (?).

Identification and caste-marks—

(1) Scar ¾ inch diameter, inner aspect of left thigh, about middle.

The body was first seen by the undersigned at 12-50 p.m. on 21—5—1952.

Its condition then was decomposition set in.

Post-mortem commenced at 12-50 p.m. on 21—5—1952.

Appearances found at the post-mortem.—External—Body of a well nourished man about 25 years, dark complexion, face bloated and rather lived, eyes congested and eye-balls rather protruding, tongue slightly protruded between teeth, discharge of blood through, nose.

Injuries—

(1), Incised wound of right side of back 1½ inches by ½ inch penetrating the right pleural cavity in sixth space starting 1½ inches to right of middle line at level of sixth cervical vertebræ and going up and outward.

(2) Incised wound on outer side of right thigh at level of knee vertically 2½ inches by ¾ inch by 5 inches deep.

(3) Incised wound ¾ inch by ½ inch bone deep on palmar and outer aspect of second piece of right index-finger.

Internal.—Heart : weight 7 oz. All chambers empty. Blood dark colour. Lungs : right, 7 oz., much congested. It has a wound on upper vertebral part of lower lobe 1 inch by ½ inch by ½ inch and another of the same dimension ½ inch above it. Blood present in acini about 3 inches around the injuries. Weight, 7 oz. No injuries or congestion.

Stomach : normal size. Empty of food matter. But about 1 oz. of dark blood present.

Liver : 32 oz., normal looking.

Spleen : 2 oz. Rather larger than normal.

Kidneys : each 3 oz. Nil. Special.

Intestines : nil special.

Bladder : empty.

Brain : 40 oz.

Opinion as to cause of death—

(a) Reserved pending report of

(b) The deceased would appear to have died of shock, hæmorrhage and probably sudden pneumo thorax due to No. 1 injury described.

Kasaragod,
22—5—1952.

(Signed) T. E. Unny,
Civil Assistant Surgeon.

Exhibit P-8.

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE, KASARAGODE.

Preliminary Register Case No. 9 of 1952.

Deposition of 16th witness for prosecution.

It. Name—Dr. T. K. Unny. Father's name—C. M. P. Namboodiri. Village and taluk—Kasaragod. Caste—Hindu. Calling—Civil Assistant Surgeon. Religion—Hinduism. Age—39 years.

Re-examination.—Sudden on rush of air into the plural cavity will cause all the symptoms of asphyxia. Injury No. 1 is of such a nature that there should have been such a sudden on rush of air. The death should have been taken place 24 hours or more, because decomposition cannot set in earlier. Twelve hours mentioned in my cross-examination is a mistake.

Exhibit P-9

Statement given by Ambu, talayari of Panathady village before the potail of Panathady at about 12 noon on 20—5—1952 :—

To-day morning on my way to Panathady, when I reached a place called Malekkal, I saw Katoor Kunhiraman Nayar lying dead on the southern side of the road, and his father Cheviri Ambu Nayar and Ambu Nayar's daughter lying in a pool of blood with grievous injuries and also two persons Onnan and Thomman lying with injuries. Two houses closeby are found to have been burnt down. On enquiry it is learnt that this unhappy incident has taken place on account of property dispute. I am giving this information.

(Signed) V. Ambu,

Signed before me.

(Signed) M. Kunhiraman Nair,
Potail.

Exhibit P-10.

Page No.

(Initialed) ——(illegible),

20—5—1952 at 17-00 hours.

Report submitted by the village magistrate of Panathady amsam, Kasaragod taluk, South Kanara district :—

To

The Station-house Officer,

Hosdrug.

Reports as follows :—

It was reported to me by talayari Ambu that at Malekkal in Panathady village on the southern side of the road, Cheviri Ambu Nayar's son Katoor Kunhiraman Nayar was lying dead, that his father Cheviri Ambu Nayar and the said Cheviri Ambu Nayar's

daughter were lying down in a pool of blood with grievous injuries and also that Onnan and Thommi were lying down with injuries and that two houses nearby were found to have been burnt down.

I recorded his statement and enclosed it to this report. I request you to take immediate action in the matter.

Signature of the village officer or any other officer sending this report.—(Signed) M. Kunhiraman Nayar, potail of Panathady.

Date, hour and through whom despatched.—On 20—5—1952 at 2-30 p.m. Sent through talayari.

Exhibit P-11.

Reference No. R.C. 6 of 1952.

To

The Chemical Examiner,

Madras.

Sir,

Subject.—Criminal justice—R.C. No. 6 of 1952 on the file of the Sub-Magistrate, Hosdrug—Accused, P. T. Kuriakose and two others—Sections 302, etc., I.P.C.—Seizure—Certain blood-stained articles—Chemical examination of—Requested.

The articles mentioned below are sent herewith for favour of chemical examination and report as to whether they are stained with human blood. :—

A list of the case is furnished below :—

On 20—5—1952 accused 1, Kuriakose, stabbed one Kunhiraman Nair to death in Panathadi village. Accused 2, Ulhannan, stabbed Ambu Nayar, father of the deceased Kuhiraman Nair and caused grievous injuries on his person. Accused 3, Thommi stabbed Bellachi, sister of the deceased and caused injuries on her person. The accused have also set fire to the house of the deceased.

List of properties sent for chemical examination—

1. M.O. VI—P.R. No. 65 of 1952 (1)—A knife said to be seized from accused Ulhannan.

2. M.O. VIII—No. 69 of 1952 (2)—A white torn blood-stained cotton banian with side pocket.

3. M.O. IX—No. 69 of 1952 (3)—One under wear.

4. M.O. X—No. 69 of 1952 (4)—A loin cloth.

5. M.O. XI—No. 69 of 1952 (5)—A black thread.

6. M.O. VII—No. 70 of 1952 (56)—Blood-stained earth.

7. M.O. 60—No. 65 of 1952 A—A knife seized from accused 1, Kuriakose.

All the above seven items have been separately packed and sealed by me. A speciman of the seal is herewith affixed to the margin of the letter.

(Signed) ———
Sub-Magistrate.

Exhibit P-12.

No. 3953/52. Case 524.

Chemical Examiner's Office, Madras,
19th June 1952.

From

The Chemical Examiner,
Madras.

To

The Sub-Magistrate,
Hosdrug,
South Kanara district.

Enclosure :—Parcel follows.

Reference.—Your letter R.C. No. 6 of 1952, dated 10th June 1952.

The following articles were received here on the 16th instant through P.C. No. SK. 843, Madhavan Nambiar, under unbroken seals which corresponded with the sample sent, viz. :—

Seven paper parcels or packets marked by you " Serial No. " 1 " to " S. No. 7 ", respectively, and containing :

Item I.—A clasp knife with a rusty blade and a bone handle, on which were dark brown stains.

Item II.—A ragged dirty white cotton cloth baniyan, on which were profuse dark brown stains.

Item III.—A torn dirty light green cotton underwear, on which were profuse dark brown stains.

Item IV.—A dirty white cotton rag, on which were profuse dark brown stains.

Item V.—Some pieces of dirty black knotted and cotton string tied together.

Item VI.—Lumps of earth and lose earth mixed with vegetable matter, on which were dark brown stains.

Item VII.—A clasp knife with a rusty blade and a horn handle, with a rusty metal swival with a rusty metal book carrying a rusty metal ring with a rusty metal clip.

I examined the above articles and I detected blood on each of items I, II, III, IV and VI but not on either of items V and VII. Item VII was dismantled here during examination.

Specimens of blood-stains from each of the items, on which blood was detected together with my letter No. 3953/Ser., dated the 19th June 1952, have been sent to the Serologist, Government of India, Calcutta, in a parcel packed under my personal supervision and personally sealed by me with my own private seal and the result of the test for human blood will be forwarded to you as soon as received from Calcutta.

Each of the seven items has been marked or labelled by me with the number of the case on my file (524), number of the items, sealed with this office seal and is returned to you for identification

(Signed) K. K. VARMA B.SC., M.B.B.S.,
Senior Assistant to Chemical Examiner.

Exhibit P-13

No. 2175-S.

Calcutta,
23rd June 1952.

From

The Serologist and Chemical Examiner
to the Government of India.

To

The Chemical Examiner,
Madras.

Your letter No. 3953/Ser., dated 19—6—1952, was received in this office on 20—6—1952.

Mode in which parcel was found to be packed on receipt and description of se

It contained five packets enclosed within the cover sealed with impressions of your private seal.

They contained, according to you, portions of blood-stained articles as overleaf received by you from the Sub-Magistrate, Hosdrug, South Kanara district, in Case No. 521 on your file.

Description of articles.

Marked by me.		Marked by you. Item.
1.	Knife.	I
2.	Baniyan.	II
3.	Underwear.	III
4.	Bag.	IV
5.	Earth, etc.	VI

Remark of analysis.—The five items noted above are stained with human blood.

(Signed) J. N. BHATTACHARJI, B.SC., M.B.D.T.M.,
First Assistant to Serologist and a Chemical Examiner to the Government of India.

Exhibit P-14.

P. T. Kuriyakose,
Palavananikal House,
Allar.

Rajapuram P.O.,
(via) Kanhangad,
19—5—1952.

Always dear Keshava Swamy,

This day we and some of our men are working at our tapioca cultivation and are living in building a house in it. The others are in the other huts still. Kelu Nair has gone to Kanhangad. Might be for filing some petitions. Make enquiries about everything and inform Kunhi Kannan Nambiar and Kumaran Nair, vakil-Sir. You must send 10 Moplas from somewhere by telling that Soopi or any other, by this evening. This is absolutely necessary. Apart from this, send 50 rupees and rice about which I told you yesterday. If it is possible do come this side tomorrow morning or send a man to know the particulars. (Neethikku Vendi Poraduga). First for the right. A man should be helped while he is in distress. Please know this. You know that I am standing in a pit. It is impossible for me to come that side to-day and tomorrow. I do not know what has happened, after Kelu Nair went and returned. Therefore I request you to help me in this matter as much as you can. Rest in person if I am destined to see you.

Yours,
(Signed) P. T. Kuriakose.

H. Keshava Kamath,
Hosdrug,
Kottacherry.

Exhibit P-15.

(Issue Register of the South Kanara Central Co-operative Wholesale Depot, Hosdrug).

I

Exhibit P-15 (a).

Page 4

19—5—1950 Rajpura Colony 50-B. 31-2-8 1,558-5-4

245/263

(Signed) P. T. Kuriakose.

Exhibit P-15 (b).

Page 11.

22 6 1950 Rajpura Colony 45 1,436-4- 400-A

(Signed) P. T. Kuriakose

Exhibit P-15 (c).

Page 15.

8—7—1950 Rajpura Stores

Ragi 1 83-11-8 3?-11-8 13

(Signed) P. T. Kuriakose.

Exhibit P-15 (d).

Page 5.

22—2—1950 Rajpura R. S. 15 '42-13-8' 642-13-273

(Signed) P. T. Kuriakose.

Exhibit P-15 (e).

19—9—1950 Rajpura Store Rice 16-80 40-12-2 684-12-6

Milo 40B 24-3-6 968-12-0

Wheat 4B 36-6-2 145-1 -8

(Signed) P. T. Kuriakose.

Exhibit P-15 (f).

30—9—1950 Rajpura C. S. 61-7 31- 1- 1935-13-3- 700

(Signed) P. T. Kurikose.

Exhibit P-16.

Deed of assignment of kuzhikkanam right for Rs. 600, executed on 24—4—1952, in favour of Puliyananukkil Kuriyakose, son of Thomman, Syrian Christian, agriculturist, residing at Malekkal in Panathadi village of Kasargode taluk, by—

(1) Padinhade Illath Aisa Umma, daughter of Moilakiriath Ahmad Kunhi and Pathumma Bi, wife of deceased Kallar Mammad.

(2) Padinhare Illath Andukka

(3) Padinhare Illath Kunhammad alias Kunhamu.

(4) Padinhare Illath P. Hasinar (minor).

(5) Padinhare Illath P. Kunhamina (minor).

Nos. (4) and (5) minors by guardian No (2)

Nos. (2) to (5), children of the aforesaid deceased Kallar Mammad by his first wife No. (1) above.

(6) Poyakkare Illath Moidu (minor).

(7) Poyakkare Illath Asya (minor).

(8) Poyakkare Illath Jainaba (minor).

10 (9) Poyakkare Illath Kadisa (minor).

Nos. (6) to (9), minors, by guardian No. (2).

Nos. (6) to (9), children of the said Kallar Mammad by his second wife Amina.

All residing at Kallar of Panathadi village, Muslims, by caste, and agriculturists by occupation.

The jenm properties belonging to Nileshwar Thekkekovilakkam which have been taken under a registered kuzhikkanam deed by the aforesaid Kallar Mammad, husband of the first of us and father of the rest, for a period of 40 years without premium (ma-
20 nusham) on an average rental of not exceeding Rs. 75 from Kerala Varma Elaya Raja, the then karnavan and manager of the said Thekkekovilakkam, as per document No. 1202 of 1934, Book I, Volume 392, pages 408 to 410 of Hosdrug Sub-Registrar's Office and also under an unregistered kuzhikkanam document obtained from the aforesaid Elaya Raja are described herebelow. We hereby assign to you for a sum of Rs. 600 the value of the improvements effected by the aforesaid deceased Mammad during his lifetime and by us after his death and other rights appurtenant to the enjoyment of the properties described below. Out of the con-
30 sideration, Rs. 200 was received as advance on 21—6—1951 on transferring possession to you as per the written agreement, for the purpose of meeting the cost of litigation, O.S. No. 702 of 1948, on the file of the District Munsif's Court, Kasaragod, transferred as O.S. No. 421 of 1949 on the file of the District Munsif's Court, Hosdrug, now pending, and Rs. 400 received in cash yesterday for paying the decretal amount of the abovesaid suit. We have received in full the amount of Rs. 600 for the best necessities of ourselves as well as the minors, in the manner stated above. Hereafter you are to enjoy the properties described herebelow, which are already in your possession under the same rights as we had, by effecting improvements and paying assessment and purappad (rent) to the jenmi and we or the minors will not have any subsisting rights whatsoever.

We hereby declare and affirm that Poyakkara Illath Amina, the second wife of the abovesaid Mammad and mother of Nos. 6, 7, 8, and 9, who was divorced during his lifetime itself, has no right whatsoever in the movable and immovable properties of the said Mammad and also no encumbrances or debts are outstanding on the property.

Description of the properties.

Properties situated in Hosdrug sub-district, Panathadi village :—

R.S. No. 274-1 (north) 6 acres, punja lands known as Chennakkat and all cashew trees, well and water channel. 10

Boundaries—

East—The crest of the punam belonging to the said Thekkekovilakkam.

South—Kuzhikkanam holding of the first executant and punam of kovilakkam.

West—Punam of the abovesaid kovilakkam.

North—Public road.

(Left thumb-impression of) Aisaumma.

(Signed) Andukka (on his own behalf and as guardian of minors 4 to 9). 20

(Signed) Kunhamu.

Witnesses—

(Signed) Keshava Kamthi, son of Laxmana Kamthi, Hosdrug.

K. Kunhassinar, son of Kappanakal Mohammad, Beary Chitary village.

Written by—

(Signed) H. Narayana Kamath, son of H. Mukunda Kamath, Hosdrug.

Exhibit P-17 (a).

No. 75. Book No. X.

NILESHWARA THEKKEKOVILAKAM PANDARAVAKA.

Receipt granted to Raman Nair, nephew of Katurveetil Muthu Nair and son of Mani Amma, residing at Kollengal of Panathadi village :—

No. 439—Assessment and rent for this year due in respect of Chennakkal kumri plot, 5 acres in extent, orally leased out to you.—Rs. 2-8-0.

In words.—Received rupees two and annas eight only.

Kollam, 1126. Chingam, 30th.

(Signed) O. Kelu Nair

16—9—1951 *Collection agent.*

Exhibit P-18 (a).

No. 439—Raman Nair, son of Mani Amma, and nephew of Katurveetil Muthu Nair, residing at Kollengal of Panathadi village

Assessment and rent.—Rs. 2-8-0.

Received.—Rs. 2-8-0.

Chingam, 30th. 75/X.

Exhibit P-19 (a).

No. 51. Book No. VI.

NILESHWARA THEKKEKOVILAKAM PANDARAVAKA.

Receipt granted to Raman Nair, nephew of Katurveetil Muthu Nair and son of Mani Amma, residing at Kollengal of Panathadi village :—

No. 439—Assessment due for this year.—Rs. 2-8-0.

In words.—Received rupees two and annas eight only.

Kollam, 1127, Medam, 11th.

(Signed) O. Kelu Nair,

23—4—1952 *Collection agent.*

Exhibit P-20 (a).

No. 439—Raman Nair, son of Mani Amma, and nephew of Katurveetil Muthu Nair, residing at Kollengal of Panathadi village :—

Assessment and rent.—Rs. 2-8-0.

Received.—Rs. 2-8-0.

Medam, 11th. 51/VI.

Exhibit P-21.

Kuzhikkanam deed for 40 years.

Kuzhikkanam deed executed by Mammad, son of Abdul Khadar Haji, born to Verakke Moilum Kiriath Asiya Umma, residing at Ambalathera of Panathadi village, Kasaragod taluk, in favour of Kerala Varma Elaya Raja of Thekkekovilagam, nephew of deceased Rama Varma Elaya Raja, karnavan and manager of Thekkekovilagam, Kshatriya by caste, and landlord, on 1st Chingam of Malayalam Era 1109, corresponding to 17th August 1934 :—

I have this day taken on kuzhikanam deed for a period of 40 years two items of property described below belonging to your tarwad on jenm right and which are in your possession, to effect improvements such as pepper vines, to rear and look after the same, to build a house and to dig a well in item 1. I undertake to pay the assessment and one-third of the yearly net income from the improvements other than pepper vines—assessment commencing from next year and the one-third income from the time the improvements begin to yield in the month of Meenam and to obtain the receipt for the same from you. Further I undertake to allow you or your men to pluck as jenmi's portion whole of the pepper yield which falls due first in Kollam, 1118, and subsequently on every fifth year and to have for myself the pepper yield of the interim years and to absolve me of the liability of paying the assessment in the years in which you take pepper income. Regarding paddy fields I lay-out, I undertake to pay one-third of the annual yield, the first collection of the same commencing on the expiry of 10 years from the date of such lay-out and such payment shall be made in kind to your kariyasthan at Panathadi, in the premises of your granary at Panathadi, during the month of Thulam and obtain receipt for the same. If any payment by way of rental, assessment, etc., falls in arrears, I will be liable to pay interest at 3/10th for paddy and at 12 per cent for cash. I undertake to surrender possession of the holding after the expiry of 40 years on receiving the value of improvements other than pepper—2/3rds in respect of improvements other than pepper and full costs of buildings and well. It is estimated that all payments by way of purappad put together will not exceed Rs. 75.

Description of property.

Hosdrug subdivision, Panathadi village :—

(1) Six acres in R.S. No. 274/1 in the locality named Chennakad, punja :—

Boundaries :—

East—The crest of the jenm Kumari belonging to Thamburan.

South—Kuzhikkanam of my wife Patinghettillath Aisa Umma and the punam of Thamburan.

West—Punam of Thamburan.

North—Public road. O.S. No. 108/5-A.

(2) Six acres in R.S. No. 274/1 in a place called Mundapilar punja—

Boundaries :—

East—Crest of the hill and kuzhikkanam holding of Veladathil Assinar.

South and west—Thamburan's punam.

North—Kuzhikkanam of my wife the aforesaid Aisa Umma O.S No. 108/5-A.

(Signed) Mummad.

Witnesses—

(Signed) Ambadi, nephew of Kunatravalappil Chirukantan, residing in Pallikere, Nileshwar.

Kunhikannan, nephew of Kudiyanath Kannan, residing at Pallikere, Nileshwar.

Written by Panavanthatta Kunhambu Nair residing at Charakunne of Velikoth of Ajanoor village.

Exhibit P-22.

No. 48. Book No. X.

NILESHWARA THEKKEKOVILAKAM PANDARAVAKA.

Receipt granted to Andukka, son of Moilakiriath Mommad, on behalf of Mommad :—

No. 53—Assessment due for this year—Rs. 6-9-0

Inwords.—Received rupees six and annas nine only.

Kollam, 1126, Chingam, 30th.

(Signed) O. Kelu Nair,
Collection agent.

16—9—1951

Exhibit P-24.
(Loan bond.)

Loan No. 1213.

To

The President of No. 4544 Co-operative Society at Kallar.

Bond, dated 9—8—1951, executed by No. 275, P. T. Kuriya kose, No. 325, P. I. John, No. 266, C. J. Joseph of Echikelu in Panathadi village.

This karar has been executed by the first amongst us as the principal debtor and the remaining as the surety, in respect of the loan of Rs. 500 (rupees five hundred only), obtained by the first amongst us for agricultural expenses, sanctioned as per the Resolution No. 16, dated 23—7—1951, of the meeting of the Directors of this co-operative society. Therefore, the following are the particulars of the instalments in respect of the said amount with interest at 1-1/5 on each rupee from this date onwards which the first has to pay to the co-operative society and obtain receipts :— 10

		Principal. Rs. A. P.	Interest. Rs. A. P.
1.	On date 31—3—1951	..	..
2.	Do.	..	..
3.	Do.	..	..
4.	Do.	..	..
5.	Do.	..	..
6.	Do.		
7.	Do.		
8.	Do.		
9.	Do.		
10.	Do.		
11.	Do.		
12.	Do.		

In default to pay anyone instalment of the amount of principal and interest or in default to apply to the Directors and obtain their permission before the due date in respect of such inability to pay, all of us will be jointly and severally liable to pay at once the entire amount of principal and interest including the default interest as per the rules of the society free from the future instalments, without the one putting forward the excuse of the other. We are bound by all the existing rules and bye-laws, and also by the future amendments, supersession and change and also by the new rules that might be introduced in them. We and our successors also are liable to the amount of principal and interest due under this karar.

We are not members of any other credit bank apart from this co-operative society and that nothing is due from us to such bank on any account, which the Directors of this co-operative society are made to believe firmly and this bond is executed by us. If it is proved against us by evidence that we have acted contrary to this we are liable for the offence of cheating committed against this society.

(Signed) T. Kuriyakose.
( ) V. I. John.
( ) C. J. Joseph.

Exhibit P-26.

Recorded on 20th May 1952 on questioning Ulahannan alias John son of Thommian residing at Adaka in Panathady village in Hosdrug station Crime No. 46 of 1952 under Sections 307 and 436 I.P.C. :—

I am living at Adaka in Panathady village. My brother Kuriakose took on marupattam about 1½ months back 6 acres of and belonging to the children of Kallaru Mammade at Chennakad in Panathady village. We have been jointly cultivating tapioca there. On the said land we have planted 850 pepper vines besides raising tapioca. Still there is also vacant land. Yesterday morning at about 10 o'clock Kaikula Mudaran Balathan Puthriyan Kuriyani Kuriyan Kurumavani Joseph Pukambail Mathai his younger brother Kunjappu, his younger brother Peter and others residing at Cherupananthadi and [illegible] younger brother Kuriakose and younger brother Thommi, dug out small pits for raising tapioca, built a small new house, and at about 4 o'clock myself Thommi mother Yeli, my wife Yeli and her two small children also occupied the said house built. All the rest went to their respective houses. Now about 1½ weeks before Nileshwar Thambran's kariastha and Ambu Nair's son Kunjirama, his younger brother Kunhambu, his father Ambu and 30 others whose names I do not know came and built a pandal like thing in the said plot and Ambu Nair, his son Kunjirama, Kunhambu and females whom I do not know lived in the said pandal. At midnight we saw lot of torch lights on the road. Kunjirama who was residing in the pandal near our house got up and went to where the said lights were flashed. About 100 persons came near my house. Of those who had come, some were armed with guns. On seeing all these, I became unconscious. My younger brother Thommi came and held me. In one galige I regained consciousness. All were cutting our house with bill-hook. Cries ordering to shoot with the gun were being heard. I went inside

Kelu Nair and Maniyani came inside the house and caught me and my younger brother Thommi and gave us in the custody of the people outside. Our hands were tied. Name I do not know. My wife and mother were pushed out. The house was cut and pulled down and set fire to. I do not know who set fire to it. The articles in my house were burnt. Out of the people gathered I saw Raman (previous karjastha) in the light of the fire. I do not know the names of others and if seen, I will point out. After some time all went. My mother untied the hands. We slept there only for the day to break. At about 5 o'clock in the morning, P. Katur Ambu Nair's son Kunjirama, Kunhambu, Thulacheri Koman Nair, servant Kutti,, Ambu Nair's daughter Bellachi and 4—5 persons whose names I do not know came and Ambu asked why we had not gone. Though we replied that this is our marupatta land, since three years we have been on this and would not go and that it was impossible to go away, Kunhirama came and waved his knife to stab. I put out my left hand and caught the knife with the right hand. My left hand was injured. I caught and wrested the knife. He began to beat me with a cudgel and blows fell on my hand and head. Ambu Nair came and held. Bellachi came and cut on the hand. Meanwhile younger brother Thommi and mother were lying face downwards without cloth. I have not seen who beat them. I have not seen whether Thommi had died. I tied to escape from them. They did not allow me. I stabbed with the knife which was in my hand. I do not know who all were hurt. When I opened the knife Kunjirama, Bellachi and Ambu Nair held. After that I do not know what I had done. Now I am producing the knife used for stabbing.

Heard being read over in Kanhada and translated in Malayalam. It is correct as stated by me.

(Signed) Ulahannan.

(Station-writer).—Register this complaint under Sections 148, 324 and 436, I.P.C., and send the first information report to me for investigation.

(Signed) ——— (illegible),
Sub-Inspector, C-S.

20—5—1952

Exhibit D-1

(Deposition of second witness for prosecution.)

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE, KASARAGODE.

Preliminary Register Case No. 9 of 1952.

Deposition of second witness for prosecution.

Name—Bellachi. Father's name—Kunhambu. Village—Panathady Taluk—Kasaragode. Caste—Nair Calling—Household. Religion—Hinduism. Age—32 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 8th day of July 1952, by Sri A. C. Naik.

* * * *

When the accused came and started to work and when the deceased asked them why they were trespassing to his land, accused 1 asked him not to speak. Later the deceased sat inside the house Meanwhile P.W. 1 came.

(Left thumb-impression of) Bellachi.

Taken down, etc.

(Signed) H. RAMESH RAO,
Stationary Sub-Magistrat

8—7—1952.

Exhibit D-2.

M. K. Nambiar.

Kasaragode,
(South Kanara)
25—4—1952.

My Dear Sir Raja,

On hearing the bearer and on perusal of the documents he possess I believe some glaring injustice is being done to him by your karyasthan Kelu Nair. Only in the interests of justice I am taking the privilege of writing to you on his behalf and I am sure that on your being convinced in the matter you will take necessary steps to prevent the same. I understand if some immediate steps are not taken in the matter there is even a likelyhood of breach of peace taking place. I request you hear the bearer and do the needful in the matter immediately

Trust this finds you in the best of health.

P.S.—Kindly send a reply through the bearer

Yours sincerely
(Signed) M. K. Nambiar

Exhibit D-3.

Deposition of P.W. 16 in Stationary Sub-Magistrate's Court.

Name—Dr. T. E. Unny. Father's name—C. M. P. Namboodiri. Village and taluk—Kasaragode. Caste—Hindu. Calling—Civil Assistant Surgeon. Religion—Hinduism. Age—39 years.

* * * *

Cross-examination (accused 1 to 3).—The death must have taken place fom 12 to 24 hours or before I saw the dead body (12-50 p.m.)

Exhibits D-4 to D-8.

[Vide Exhibit P-15.]

Exhibit D-5.

No. 76. R.C. No. 9/52. Book No. X.

NILESHWARA THEKK KOVILAKKAM PANDARAVAKA.

Receipt granted to B. Anandan, son of Chindan, motor driver residing at Pallikere in Pallikere village

Number.	Description.	Amount received.					Balance due.		Remarks.
		Paddy.	Para	Rs.	A	P.	Paddy.	Para	
(1)	(2)	(3)	(4)	(5)			(6)	(7)	(8)
442	Nikudhi porappad (assessment for this year in respect of Chennakad forest 8 acres 50 cents in extent) orally leased out to you.			0	4	4			

In words:—Rupees four and annas four only.

Kollam Chingam 30th 1126.

(Signed) O. Kelu Nair,
Collection agent

16—9—1951.

Exhibit D-7.

True extract from the case diary, F.I.R. No. 46 of 1952 of the Police station, Hosdrug, relating to R.C. No. 9 of 1952, on the file of the Stationary Sub-Magistrate, Kasaragode.

* * * * *

After some time he noticed accused 1 to 3 along with some others pulling out the newly built shed by the accused and throwing to a side and setting fire to it.

* * * *

Exhibit D-8.

True extract from the case diary, et

He, when reached Malekkal at about 07-10 hours, he saw the deceased lying with injuries, his father with injuries and sister too with several injuries lying at Chennakad in Malekkal. He had also seen accused 2 and 3 and their mother lying with injuries on a mat underneath a tree just bear the burnt house. He treated them all with water.

Exhibit D-8 (a).

The bus which was scheduled to start from Katachery to Panathady at 5 p.m. could start only at about 2 a.m. on 20—5—1952 (in the night of 19—5—1952). He reached Panathady only at about 04-30 a.m. He would have reached Malakkal at about 04-15 hrs. and he did not hear anything about the stabbing and the situation was appeared to be quiet.

Exhibit D-9.

(*Agreement dated 21st June* 1951.)

Agreement, dated 21st June 1951, executed in favour of Kuriyakose, son of Puliyananukkil Thomman, Syrian Christian, residing at Malekallu in Panathadi village of Kasaradoe taluk, by (1) Padinhare Illath Aisumma (2) Andukka (3) Kunhama Nos. 2 and 3 are the children of No. 1 by Mammad)—No. 1 is the daughter of Moyilliakkiriath Amad Kunhi and is the wife of Kallar Mammad—Muslims, residing at Kallar of the said village :—

The properties described below belong in jenmam to the Nileshwar Thekke Kovilagam and as per the registered Kuzhikkanam marupat No. 1-392-408-410-1202/1934, Sub-Registrar's office, Hosdrug, executed by the said Mammad husband of No. 1 and father of Nos. 2 and 3 among us, in favour of Kerala Varma Elaya Kooru Raja, the manager and karnavan of the said kovilagam and as per the unregistered kuzhikkanam lease deed executed by the latter, the said Mammad was in possession and enjoyment of the properties, effecting improvements, etc.

The said Mammad died and we are his legal heirs entitled to his movable and immovable properties and as such, this also has devolved upon us and we are in possession of the same on kuzhikkanam right. As orally leased by us to you before, you are now in possession and enjoyment of this item and the same is described in

the schedule herebelow. A consideration of Rs. 600 is fixed for our kuzhikkanam and other rights in this property and it is agreed to assign the property in your favour. This day we have received Rs. 200 in cash from you in full satisfaction. It is also agreed that the assignment deed will be executed in your favour within a year from this day and that the remaining Rs. 400 out of the consideration will be paid to us before the Sub-Registrar at the time of the registration. It is also agreed that if we fail to execute the kuzhikkanam lease deed in your favour as agreed to above, we will be responsible for all your loss and hardship thereby caused to you.

Description. (*Panathadi village*).

In R.S. No. 274/1, extent 6 acres, punja, Chennakkat punja sthala, cashew trees, well and thodu dug out to lead water.

Boundaries—

East.—Kumri lands belonging to the said Thekke Kovilagam.

South.—Kuzhikkanam lands of No. 1 among us and Kovilagam's kumri lands.

West.—Kovilagam's kumri lands.

North.—Government-road.

(Left thumb-impression of)—

1. Aisumma.
2. Andukka.
3. Kunhamu.

Witnesses—

(1) Signed) Kallar Vadakkan Mammunni (signed in Batte characters).

(2) ( ) Joseph, son of Ettiyeppillil Ittipuram, residing at Echikan of Panathadi village.

Written by—

(Signed) H. Narayana Kamath, son of H. Mukunda Kamath, Hosdrug

List of material objects.

IN THE COURT OF SESSION, SOUTH KANARA DIVISION

Sessions Case No. 36 *of* 1952.

(*Preliminary Register Case No.* 9 *of* 1952, *on the file of Stationary Sub-Magistrate, Kasaragod*

Mark given in the Sessions Case.	Mark given in the order of commitment.	Item of reference in the letter to the Chemical examiner (vide Exhibit P-11).	Item of reference in the letter to the Serologist, (vide Exhibit P-12).	Mark given in the report of the Serologist (vide Exhibit P 13).	Description.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	VIII	..	..		Grinding stone.	
1 (a)	..	..	..		Roller of M.O. 1.	
2	XIV	..	..		Grani e stone piece.	
2 (a)	..	..	..		Do.	
2 (b)	..	..	..		Do.	
2 (c)	..	..	..		Do.	Seized from the scene of offence as per observation
2 (d)	..	..	..		Do.	mahazar Exhibit P-28 of the
3	XV	..	..		Half burnt iron laddle.	lower Court.
4	XVI	..	..		Coconut scrapper.	
5	XVII	..	..		Empty tin container.	
6	XVII	..	..		Five blank sheets of paper with letter-head of 1st accused.	
7	..	1	..		Half-burnt cadjan torch.	
7 (a)	LI	..	..		.. Do. ..	
8	VI	1	I		Knife produced by accused 2	Produced by accused 2 before the Sub-Inspector, P.W. 2.
9	LX	7	VII		Knife seized from accused 1	Found on the person of accused 1 by P.W. 20 and seized as per Exhibit P-39 of the lower Court.
..	I	..	..	..	Blood-stained mundu of P.W. 1.	
..	I(a)	..	..	..	Bairas of P.W. 1.	Seized from P.W. 1 as per
..	II	..	..	..	Leather belt of P.W. 1.	Exhibit P-34 of the lower
..	III	..	..	..	Under cloth of P.W. 1.	Court.
..	IV	..	..	..	Blouse of P.W. 2.	Seized from P.W. 2 as per
..	V	..	..	..	Blood-stained cloth of P.W. 2.	Exhibit P-33 of the lower
..	..	..	..	..	..	Court.
..	VII	..	..	1	Gold ear rings 2.	..
..	VIII	2	II	2	A white torn blood-stained cotton banian with side pockets.	Seized from the body of the deceased at the time of
..	IX	3	III	3	An underwear.	inquest (vide Inquest Report
..	X	4	IV	4	A brownish loin cloth.	Exhibit P-27 of the lower
..	XI	5	V	..	A waist card.	Court.
..	XII	..	..	..	A silver talisman.	..
..	XVIII	..	..	..	Copper vessel ¼ maund)	..
..	IX	..	..	..	Copper vessel 4 lb.	
..	XX	..	..	..	Copper vessel 6 lb.	
..	XXI	..	..	..	Copper vessel 4 lb.	
..	XXII	..	..	..	Iron plates 13.	
..	XXIII	..	..	..	Iron tumbler 1.	

Mark given in the Sessions Case. (1)	Mark given in the order of commitment. (2)	Item of reference in the letter to the Chemical Examiner (vide Exhibit P-11). (3)	Item of reference in the letter to the Serologist (vide Exhibit P-12). (4)	Mark given in the report of the Serologist (vide Exhibit P-13). (5)	Description. (6)	Remarks. (7)
	XXIV				Iron plate.	
	XXV				Aluminium tumbler.	
	XXVI				Tumbler with handle.	
	XXVII				Bed lamp.	
	XXVIII				Trunk.	
	XXIX				Wooden roller.	
	XXX				Footruler.	
	XXXI				Tobbacco ½ lb.	
	XXXII				Betel nuts 5.	
	XXXIII				History of Vikramadithya (in Malayalam).	(d) 0 1 0
	XXXIV				Rubber seal of accused 1.	
	XXXVI				Tin containing some powder.	
	XXXVI				Snow.	Seized by the Sub-Inspector, P.W. 20 from the scene of offence as per observation yadast, Exhibit P-28.
	XXXVIII				Sand papers 3.	
	XXXIX				Lid of an old jar.	
	XL				Seed of murikka plant in a piece of cloth.	
	XLI				Three mumuttis (broad)	
					Four mumutties (narrow)	
					One Axe 3 crowbars.	
					Two bill nooks and 1 bill hook without handle.	I
	XLII				Winnow.	
	XLIII				Sieve.	
	XLIV				One Pettumana.	
	XLV				Iron implement with a long wooden handle.	(e) 1 1
	XLVI				Coconut shall ladle.	
	XLVII				Two earthern pots.	
	XLVIII				Six seers of rice in a gunny bag.	
	XLIX				Bamboo splinters.	
	L				Brooms.	
	LII				Coir rope.	
	LIII				Three hearth stones	
	LIV				Two mats.	
	LV				One cot.	
	LVI				Wooden stool.	
	LVII	6	IV	5	Scrapped blood stained earth.	
	LVIII				Blood stained mat.	
	LIX				Waisti seized from accused 2.	Seized from accused 2 as per yadast, Exhibit P-35 of lower Court.

Court of Session, South Kanara,
Mangalore, dated 9—1—1953.

(By order)
(Signed) ——.

MEMORANDUM OF CRIMINAL APPEAL.

(Under Section 410, Cri.P.C.)

In the Court of Session. South Kanara.

Sessions Case No. 36 of 1952.

In the High Court of Judicature at Madras.

Criminal Appeal No. 797 of 1952.

	In the lower Court.	In the High Court.
Between		
1. P. T. Kuriakose. 2. Ulahannan. 3. Th mmi alias Thomas.	*Accused 1 to 3.*	*Applts.*
and.		
The State—	*Respt.*	*Respt.*

The address for service of all notices and processes on the appellants is that of their counsel Mr. M. C. Sridharan, at No. 29, Law Chambers, High Court Buildings, Madras.

The appellants above named beg to prefer this Memorandum of Criminal Appeal against the judgment, dated the 8th day of December 1952 in Sessions Case No. 36 of 1952 on the file of the Court of Session, South Kanara, on the following among other grounds

1. The conviction of the appellants is against law and opposed to the evidence oral and documentary in the case.
2. The lower Court ought to have held that the facts alleged and proved by the prosecution do not in law constitute the ingredients of the offences falling either under Section 302 or 307 I.P.C.
3. The lower Court ought to have held that far from the accused being the aggressors they were the victims of a most dastardly attack by the deceased and his party backed up by the powerful Raja of Nileshwar and his satellites.
4. The learned Judge having found that the Raja and his men had an implacable hatred to the Travancore Christian immigrants to which class the accused belonged, ought to have drawn the necessary inference against the prosecution case and in favour of the accused

5. The lower Court failed to note that the facts disclosed by the prosecution clearly formed two separate incidents, the arson being at midnight and the stabbing in the morning. The implication of Exhibit P-1 has not been correctly understood.

6. The lower Court failed to see that the alleged oral lease of the disputed property by the Raja to the deceased in April-May 1951 was false and was the beginning of the attempt to defeat the rights of the accused who were already in peaceful possession of the property under assignment from a lessee of the Raja under Exhibit P-21.

7. The lower Court overlooked the fact that the alleged oral lease to the deceased was not acted upon and this is clearly proved by the fact that even according to the lower Court possession passed to the deceased only three months before the present occurrence though the lease was alleged to be 1½ years earlier.

8. The lower Court in this connection ought to have given due weight to the evidence of the Court witness who is a non-partisan and is a highly respected person of the locality.

9. The lower Court ought to have held that P.W. 18 the Rajah's karisthan was at the bottom of the whole trouble and that he was fabricating receipts to bolster up a false case.

10. The lower Court has not given due weight to the fact that accused 2 and 3 had each four knife injuries on their person and that this clearly proved that there was a free fight between the parties and that the injuries caused to the deceased and his party was not premeditated.

11. The lower Court ought under the circumstances have acquitted the accused.

12. The lower Court ought to have held that the huts in the property was set fire to by the deceased and his party and not by the accused and the conviction of the accused under Section 436 is therefore unsustainable.

13. The lower Court ought to have believed the alibi evidence of the first accused and held that he had no part or lot in the incident.

14. The lower Court erred in holding that Exhibit P-14 was written by the first accused. It ought to have held that the letter was a forged document written on the letter-head of the first accused procured in the hut in which he was living at the time.

15. The lower Court ought to have held that even if Exhibit P-14 was a genuine document it did not say that the accused was preparing to attack the prosecution party.

16. The lower Court ought to have held that Exhibit P-26 was inadmissible in evidence.

17. The lower Court ought to have held that the plan Exhibit A-25 was incorrect and made to order to suit the prosecution case.

18. The criticism of the lower Court of Exhibits D-9 and P-16 is unsound and unsustainable.

19. The grounds urged by the lower Court for disbelieving the defence witnesses Nos. 1 and 6 are unwarranted.

20. The lower Court erred in placing any reliance on P.Ws. 10, 11, 14 and 19 who from the nature of things could not be expected to speak against the Raja and his underlings.

21. The delay in the first information report and the non-examination of any independent witnesses living in the neighbourhood was fatal to the prosecution case. The lower Court has failed to note the subsequent development in the prosecution case.

22. The lower Court ought to have held that the accused had the right of self defence of both their person and their property and the death of one of he parties should have never entered into its calculation in assessing the truth or otherwise of the defence version.

23. The sentences are unduly severe.

Madras,
19—12—1952.

(Signed) M. C. SRIDHARAN,
Counsel for Appellants

CASE DIARY.

Police Station. Hosdrug. First Information Book No.45/52 of ~~195~~ District, South Kanara.

Date and place of occurrence. 20-5-1952 at about 5 A.M. - Malekkal in Panathady Village - 22 Miles East.

Offence. Section 302, 436 I.P.C. Page. 1.

Date (with hour) on which action was taken.	Record of Investigation.
20-5-1952. 17.00 Hrs to 05.00 Hrs. I. 20-5-52 - 17.00 Hrs. II. Talayari Ambu of Panathady. III. Accused. 1. Kuriyakose S/o Thomman of Malekkal in Panathady. 2. Ulahannan S/o Thomman brother of No.1. 3. Thommi brother of No.1. IV & V Nil. VI First C.D. Witnesses Examined. 1. Cheveri Ambu Nair S/o Kankal Rama Nair, Kallangel in Panathady Village. 2. Bellachi D/C No.1. 3. Ambu Nair S/o No.1. 4. M. Kunhiraman Nambiar V.M. of Panathady 5. Ambu S/o Ambu, Talayari of Panathady. 6. Thulacheri Koman Nair S/o Raman Nair, Panathady. 7. Kammadath W/o P.W.6. 8. Madhava Nair, brother of No.7. Panathady.	This day at about 12 Noon Talavari Ambu of Panathady Village laid information before the V.M. of Panathady Village that this morning as he was going to Panathady he found Kathur Kunhiraman Nair dead, his father Cheveri Ambu Nair and his daughter seriously injured and smeared in blood at Malekkal on the Southern side of the road. Besides this he also found Onnan, Thomman also lying with injuries. Closeby 2 houses have been burnt. On enquiry he learnt that it was due to land dispute. The V.M. of Panathady Village recorded the statement of his informant Ambu and sent his occurrence report to the station through his another Talayari Krishnan at about 2-30 P.M. The report of the V.M. along with the statement of his informant Ambu was received by me at the station at 17-00 Hrs. and the same was registered in the F.I.R. as Hosdrug Station Cr.No.46/52 under section 302, 436 I.P.C. Immediately on registering the F.I.R. I sent Express Reports to Inspector of Police, Kasaragod, Dy.S.P. Puttur Sub Division, District Superintendent of Police, S.K. and the Sub Divisional Magistrate, Puttur through P.C. 117 at 5.45 P.M. At abait 5.50 P.M. I sent a requisition to the Medical Officer, L.F. Dispensary, Hosdrug through the Sub Magistrate, Hosdrug requesting the Medical Officer to visit the spot and to

142

conduct the Post Mortem Examination over the dead body lest the body would be liable for decomposition and also with a request to examine the injured and to issue certificates. It was ascertained that the Medical Officer, of L.F. Dispensary is on C.Leave and Hony. Medical Officer Dr. Sri.Keshava Pai is in charge of the dispensary. The requisition was then forwarded to Hony. Medical Officer and he returned the same saying that he would not do the Post Mortem Examination as while accepting the Hony. Medical Officer's post he has informed the authorities that he would not conduct a Post Mortem Examination. Then I sent a wire to Medical Officer, Kasaragod to come to Hosdrug and do the needful and also sent and Express Report to him to come to Hosdrug to hold Post Mortem Examination over the dead body through P.C. 117.

Leaving the station at 6.15 P.M. along with the H.Cs 728, P.Cs 555, 50, 710 in a taxi MDX 1195 and went to Kottachery and taking the Hony. Medical Officer Dr. Sri Keshava Pai proceeded to Panathady side. While going we met Banu Motor Service MDX 1866 and ascertained that the injured are being taken to the Hosdrug Hospital for treatment. I stopped the bus at Attengal in Belur II Village and requested the medical Officer Dr. Sri Keshava Pai to examine the injuries. The Doctor on seeing the injured said that the old man with injuries Ambu Nair, P.W.1. has got serious wounds and he should be attended to immediately. Doctor rendered first aid.

I questioned Cheveri Ambu Nair S/o. Kokkal Raman Nair as witness 1. He stated that he was living at Panathady Village at Kollangal the last 20 years, with his wife, Mani, son Kunhiraman Nair, his wife Kunhipennu, daughter Bellachi, her daughter Parvathi, son Ambu. Chennal in Malekkal in Panathady Village has been taken on lease by his son Kunnil an Nair, the deceased, about a year ago from Nileshwar Thamburan. Himself his son the deceased Kunhiraman Nair, Bellachi his daughter, Ambu his younger son and Bellachi's daughter Parvathi came and settled in the Chenn kal Shed. built by them about 3 months ago. They planted plantain trees, sticks for pepper vines (Murukkan Kali) about 1000 in number and also tap occa. A.1. Kuriayakose was trying to get this land for him. Yesterday at about noon time A.1. to A.3. along with 30 others came to their land and built a small hut just close to their house on the North eastern corn and stayed there for the night. He along with his sons and daughter grand daughter and slept in their house closing the bamboo [illegible] door.

After midnight at about cock crying time A.1. Kuriayakose came to his house and asked them to quit the house. He refused to quit. When A.1. to A.3. set fire to his thatched house, they raised hue and cry and ran out and stayed under a tree. After sometime, before dawn, they again went to the place when A.1. Kuriyakose said that they should not remain there. They refused to go when A.1. stabbed his son Kunhiraman, Kunhiraman ran, fell down when Kuriayakose again stabbed him. His daughter Bellachi went after him crying that her brother is killed when A.3. stabbed her. At that time A.2. stabbed him on the back and sides with a knife. On seeing the accd. stabbing, Witness Ambu Nair and Paravathi ran away from the place. They were all lying in the land itself. After sometime seeing his son dead A.2., A.3. Poothankal Mathai, Pookambil Kunhappa, his brother Peter, Methanth Kunhappa, and there demolished their newly built shed and throwing the same a little away to the north on the site set fire to it. Next morning at about 10 A.M. Talayari Ambu came and seeing him went away. Later on Potail and others came to them and arranged to send them by bus to Hosdrug.

Witness.2. Bellachi D/o Ambu Nair, witness.1. who was travelling in the same bus was questioned. She stated that she was living along with W.1. for the last 3 months in the shed put up at Malakkal (Chennakat) in Panathady village. They cultivated plantain trees, tapiocca, and erected sticks for the pepper vines etc. in the same land given to them by Nileshwar Raja. A.1. Kuriayakose was trying to get the same land for him. On yesterday at about noon time A.1. to A.3. along with 30 others came to the land and put up a shed close to their house on the north eastern corner and stayed there for the night. They were sleeping in their shed closing the thattie door. After midnight at about cock crying time A.1. came to their house and asked them to quit the place. Witness.1. and other inmates in the house refused to quit. Then A.1. to A.3. set fire to their house. Seeing the house on fire they left the place and went and stayed under tree, closeby. After sometime before dawn they again went to the place ~~and stayed~~ when A.1. Kuriyakose asked them not to remain there They refused to go. When A.1. stabbed her brother Kunhiraman with a knife of about ½ a cubit in size, Kunhiraman ran and fell down at a distance when A.1. again stabbed him at the back. She seeing this cried out and ran after him when A.3. stabbed at her all over the body she fell down injured. Her father witness.1. began to run away when A.2. stabbed him

Witness.1. too fell down injured. On seeing the accd. stabbing the sed and herself witness. Ambu. her younger brother and her daughter rand After sometime seeing the deceased dead accused A.2., and A.3. along with Pookambin Mathai, his brothers Kunhanna, Peter. Mathanmil Kunhanna. Nilata Kunnappa, Mathanmil Kunnappa, Kulkulil Kuriyan and about 30 others d ished their newly constructed shed and throwing the same at a distance set fire to it. They were lying in that position till about 10 A.M. when Talayani Ambu came and seeing them lying went away. They were shifted to Hosdrug in a Bus in the evening by the petail and others.

Witness.3. Ambu Nair S/o Witness.1. Who was travelling in the bus and attending on the injured, when questioned stated that he was living for the last 3 months in the shed built at Malekkal in Panathady village, which was taken on lease by the deceased about a year ago from Nileshwara Thamburan. They had planted plantain trees, tapioca and sticks for pepper vines in the said land. Yesterday at about 10 A.M. A.1., A.2. and A.3. along with Pookam Mathai, Pookambail Kunhanan, Pookambil Peter, Nilatapara Kunnappa, Mathanil Kunhanan, and about 20 others came to their land and built a new thatched shed close to their house on the north eastern side. their house and stayed there for the night. Witness.1, 2 himself and deceased and daughter P.W.2. after taking their food slept in their shed closing the thatched door. After midnight at about cock crying time A.1. came to their house and said that they should vacate the house. Witness.1. and other inmates including the deceased refused to vacate. At that time their house Seeing the house on fire himself and other inmates left the house and stood under a tree close by. After sometime they again went to the place where A.1 asked them to quit the place but they did not and returned this time her, Kunhiraman ran away and fell down few yards to the north west of the house when again A.1. stabbed him. Seeing this witness 2. raised a cry and ran towards the deceased when A.3. stabbed all over her body. She also fell down. Father, witness.1. who was also going to the place was stabbed by A.2. with a knife. Seeing this he got afraid and ran towards the road side along with Parvathi daughter of witness.2. He ran towards north and was standing in the northern side of the road from where he noticed that the accd. along with some others whom he could not recognise demolished their newly built house and throwing them a few yards north and set fire to it. He had not seen A.1. after his brother was stabbed by him

(A.1). He then went to Panathady to inform the Karyastha of Nileshwara Rajam Kelu Nair. After giving information he returned to the place and accompanied the injured to go to Hospital.

I then questioned A.2. Ulahannan S/o Thomman who was also injured and was going to Hosdrug Hospital for treatment in the same bus. He was questioned. He stated that he has been living in Adaka in Panathady Village. His brother Kuriyakose has taken 6 acres of land at Chennakat in Panathady Village belonging to Kattar Mohammade Kunhamaruvathukkal about 1½ months back. Himself and his brothers jointly cultivated tapioca plantation in the said land. They have planted about 850 sticks for pepper vines and tapioca. Portion the land is still remains uncultivated. Yesterday morning at about 10 A.M. himself, his brother Kuriyakose, Thommi, Kaikula of Cherubanangadi, Medaran, Bellathan, [illegible], Kurimulli Kurian, Kunjauvarkey Joseph, Poothambil Mathai, his brother Kunhappa, his brother Peter and some others went to the said land and dug small pits for planting tapioca and built a small shed. At about 4 P.M. himself, his brother Thommi, mother Yeli, his wife Yeli and her 2 daughters stayed in the newly built shed in the said land. The rest of the people mentioned supra went their respective houses. About one hundred years back [illegible], Karyastha Nileshwar Thamburan. Kunhiraman S/o Ambu Nair, his brother Kunonamu his father Ambu and about 50 others whose names and address not known came the said land and built pandallike house. Kunhiraman S/o Ambu Nair, Kunhambu and females whose names he does not ~~know~~ know began to live in the said house. Yesterday night he saw several torchlights being flashed on the road. Seeing the light on the road Kunhiraman who was living close to their newly built house went towards the light's direction. About 100 strong came towards their house. Some people had guns with them. Seeing them he became unconscious. Thommi, his brother caught hold of him. Little later he regain consciousness. All those people came there began to cut away the shed put up by them. ~~All those people who those began~~ He heard them shouting that shoot at them. He went inside the shed. Kelu Nair, Maniyani got into his head and catching hold of himself and his brother Thommi gave them in the hands of those standing outside. Their hands were tied out he does not know who tied his hands. His mother and wife were ousted out of the shed and they set fire to the house. He could

146

not know who set fire to the house. The samans kept inside the house all burnt away. He could see Raman . the previous Karyastha in the light of the fire. He could not recognise others but could identify them if seen. After sometime they all left the place. His mother untied his and his brothers hands. They stayed there itself till morning. At about 5 A.M. Kunnirama S/o Katur Ambu Nair, Kunhambu, Thulacheri Koman Nair. Bellachi D/o Ambu Nair and 4. to 5 others.whose names he does not know came and Ambu Nair asked them why they have not left the place. Himself and his brother and other inmates said t at the land was got out of Maruvatam and they are living in the same place since about 3 years. They refused to quit the place. Kunhiraman came with a knife and saying that he would stab opened the knife when he held his left hand in front and snatched away the knife by right hand. when he sustained an injury on his left hand. They began to deal blows with the cudjals and he was injured at the hands and head. Then Ambu Nair came and caught hold of him. Bellachi at that time cut his hand. In the meantime he saw his brother. Thommi and mother lying naked on their face. He did not know who had beat them. He thinking that his brother Thommi had dead he tried to extricate from their clutches but they did not leave him and at that time he had stabbed at them, with the knife which was with him. He could not say to whom all it has inflicted. When he opened the knife Kunhiraman, Bellachi, Ambu Na had caught hold of him..He cannot say what he has done afterwards. would produce the knife wit which he stabbed.

The above statement was recorded by me. read over and got his signatur As the statement disclosed a cognizable once I sent the statement to the station to register a case Under Section 148, 324 and 436 I.P.C. through P.C. 710.

The knife produced by the accused was seized under a yadast. There were brown stains at the handle and the blade. The same will be sent to court for onward transmission to the Chemical Examiner, Madras.

I rhen questioned A.3 Thammi S/o Thomman, brother of Ulahannan, A.2. who was also travelling with some injuries to the Hospital at Hosdrug in the same bus. He stated yesterday at about 10 A.M. along with A.1. & A.2. and other coolies went to Malekkal in Panathady which was taken on Maruvath

147

by his brother A.1. from the sons of Kallar Mohammad and built a new shed just close to the shed of the deceased, Kunhiraman, who was occupying the same for the last about 1½ weeks along with his father, Ambu Nair, sister Bellachi, younger brother Ambu and Parvathi, D/O Bellachi. Kunhiramzn and his father had planted plaintain trees and some sticks for pepper vines in the same plot. Himself his brother Ulahannan, ~~and Kuriyakose~~ and Kuriyakose have raided tapiacca cultivation and have planted about 850 stick for pepper vines in the same plot. At about 4 P.M. they completed the work of building the shed. The workers all left for their respective houses. A.1. Kuriyakose left the place. Himself, his brother, Ulahannan, mother Yeli, brother's wife Yeli and her daughters stayed ih the same newly built shed. At about midnight he saw several torch lights flashing on the road, Seeing the light Kunhirama from the neighbouring house went towards the light. Kunhiraman along with 100 people came to their house and asked them to quit the house. Himself and his brother refused to quit the house. When Kelu Nair and Maniyani got into their newly built shed and dragged him, and his brother Ulahannan and gave them into the hands of some people who were standing outside. He cannot say in whose hand they were given. Their hands were then tied. All the samans inside the house were burnt. All persons surrounded the house and demolished and set fire to the same. Some of them had guns in their hands, some of them had sticks. He also found the house in which the deceased living on fire. He could not say who set fire to the same. Little later they all left the place. They stayed under the tree close to the demolished shed. At about 8 A.M. this day Ambu Nair, his his son Kunhirama, Ambu Nair's daughter Bellachi, son Ambu, Koman Nair and 4 to 5 others whose names he does not know came to them and Ambu Nair asked them why they had not left the place. They did said that the land belongs to them as they have taken the same on Maruvatam and they were there for the last 3 years. They refused to quit the place. Kunhirama came with a knife and saying that he would stab, opened the knife when A.2. held his left hand in front just toward off the blow and snatched away the knife by right hand. They began to deal blows with cudjals at him. He fell down on the ground unconscious. He did not know what happened afterwards. He said that A.1. had left the place as soon as the shed was complete saying that he would go to Kanhaggad. He was removed to Hospital in the bus after the arrival of the Patail.

Questioned Yelli W/O Thomman, mother of A.1. to A.3 who was also travelling in the same bus. She stated that yesterday morning herself along with her 3 sons and some coolies went to Malekal which is in their possession for the last 3 years and built a shed to live in. She also found P.Ws 1 to 3 and deceased living in the house close by in the same land. They remained in the shed newly built for the night. At about midnight they saw several lights on the road side. About 100 strong came and surrounded their house. A.1. was not there then as he had gone to Kanhangad. Kelu Nair, Maniyani entered their house and dragged A.2 and A.3. out of the house and tied their hands. Herself and her daughter-in-law were ousted out of the house. Daughter-in-law seeing this ran away. The people including P.Ws 1 to 3 and others demolished their house and set fire to the same. Some of them had guns, some of them had cudjals and knife etc. in their hands. After setting fire to the house they all left the place. She untied the hands of A.2 and A.3 and remained there itself underneath a tree. At about 8 in the morning Ws. 1 to 3 and deceased along with 4 to 5 others came to their house and witness.1. asked them why they have not left till then. They said that the plot belonged to them as the same was taken on sub-lease and they would not leave the place. When Kunhiraman came with a knife to stab A.2, A.2 wrested that knife when he sustained some injuries on his hand. They all then dealt blows at them and she fell unconscious. She did not notice what happened afterwards. She was then shifted to Hospital after the V.M. arrived at the place.

All the injured were sent in charge of P.C.710 under requisition to the Medical officer for treatment and issue ~~xxx~~ certificates. The Doctor who came along with us also left in the same bus.

I proceeded to Malekkal in Panathady Village and reached the spot at about 12.30 in the night. I held inquest over the dead body of Kunhirama Nair in the presence of Panchayatdars from 01.00 Hrs. to 03.30 Hrs. at the spot. Inquest report is herewith attached.

The corpse was sent for Post Mortem Examination to Hosdurg in charge of P.C.555 at about 3 A.M. At the inquest I examined witnesses 4 & 5. P.W.4.M. Munhiraman Nambiar, V.M. of Panathady Village stated that this day at about 12 noon his Talayari Ambu came to him and informed that he (Talayari) saw Kunhiraman Nair lying dead with injuries at Malekkal and his

father and sister also lying close to him with serious injuries. Further he said that A.2. and A.3. were also lying there with injuries. He took a statement from his Talayari and sent his report to the police station along with the statement of his informant, through Talayari Krishnan at about 2.30 P.M. He then proceeded to the spot and arranged the shifting of the injured to the hospital by bus and waited till the arrival of the police.

P.W.5. is Ambu S/o Kunhi Talayari of Panathady Village. He stated that this day while he was going towards Panathady side for Revenue Collection he saw at about 10 A.M. Kunhirama Nair S/O Ambu lying dead under-neath a tree, his father and sister were also lying with serious injuries on their persons. He also found A.2. and A.3. lying with some injuries near the houses which have been burnt.

P.W.6 is Koman Nair N/O Raman Nair, Malekkal in Panathady Village. He stated that he lives in the house of his wife, Kammadath just opposite to the house of the deceased on the north of the Hosdrug-Panathady Road. He knows that Witness.1.,2, 3 and the deceased were living in Malekkal (Chennakat) for the last 3 months erecting a shed. In his house there are his wife, Kammadath and Her brother Madhavan Nair, who has been suffering from eye disease and Rama Nambiar working under Driver Ananda who has taken up land just close to the Chennakat also used to stay with them, Yesterday he had been to Ottakola at Purundarakavu last night. He did not witness the occurrence. He came to know about the occurrance only on his return. He also stated that the deceased had married his sister-in-law.

P.W.7 is Kammadath W/O P.W.6 who is living about 50 yards to the north from the road side. She stated that her husband P.W.6 had gone to Purundara kavu to attend a Ottakolan festival. Her brother Madhavan Nair and Raman Nambiar working under Driver Ananda were at home. Yesterday early morning she heard some hue and cry from the direction of Chennakat and burning of houses. She did not come out of the house and she was afraid. Her brother also did not go out as he was suffering from bad eye disease. Rama Nambiar who was sleeping on the veranda had witnessed the occurrence.

I made enquiries about Ramana Nambiar and learnt that he had gone to Hosdrug to attend on the injured.

P.W.8 Madhavan Nair Brother of P.W.7 whom questioned stated that he is suffering from eye disease for the last 3 months and is under treatment

under a doctor at Mangalore. Last night (Night of 19-5-52) his brother-in-law had gone to Purundarakavu for ottakol festival. Himself and his sister were alone in the house. Last night they heard hue and cry and burning of house from the Chennakat side. He did not go out as he was suffering from the eye disease. I found his eyes in a bad condition and is really not in a position to see anything clearly. Rama Nambiar who was sleeping on the verandah of their house had witnessed the occurrence. He came to know of the occurrence in the morning.

I inspected the scene of occurrence and prepared and observation yadast in presence of the witnesses. Copy of the same is attatched. The scene of crime is at a place called Chennakat in Panathady Village on the right side of the road proceeding from Hosdrug to Panathady near 17/6 Mile-Stone. It lies about 150 ft. away on the southern side of the road and marks of burnt houses are visible. The foundation of the house is 18'X8' 2" in which the deceased was alleged to have put up. A hearth made of 5 stones lies on the northern side. It is observed that 8 wooden pillars have been burnt. There is a flat grinding stone of 21" x 12". An iron ladle half burnt was found at the foundation of the house as well as burnt squash guard at the foundations. 6 stums. 3 poles (burnt), flat griding stone with roller. A burnt squash guard, 5 stones of hearth, iron ladle, burnt wooden pillars, 'Heramane' instrument to scrape coconut kernel, burnt tins etc. were seized from this foundation.

From this house on the north eastern side about 7½' away there is a foundation of a newly built house which is about 15' x 11½'. 8 wooden pillars alleged to have been rooted out and one of the pillar about 34" in length and its top portion has been cut are seen on this foundation. Copper cauldron weighing about ½ maund, another copper cauldron 4 lbs. in wieght, a copper vessel weighing about 6 lbs. and another copper vessel weighing 4 lbs. iron old plates 3, and other house hold articles etc., etc. found on the foundation of the newly built house were seized. In this house A.1. and his family were alleged to have been living. Two mats about 10' away from the newly built house in which blood stains were seen and on which A.2. A.3. and mother of the deed. alleged to have laid down were also seized. About 10' to the north of this house it is seen some of the pillars cudian leaves and other materials of the house were seen burnt.

157

Some remais of the burnt pieces were seized.

The deceased was found lying abo t 70' to the North West away from the house of the deceased. P.W.2. was alleged to have been lying close to the deceased. About 45' North West the house W.1. was alleged to have lying ~~xxxxxxx~~ on a mat. The mat~~xxx~~ on which W.1. alleged to have been lying was found smeared with blood. The mat has been seized Mud smeared with blood from the place where the deceased found lying was also seized. There is a well about 135 feet to the west.

At the land in question there are plantain-trees tapioca cultivation and sticks for pepper vines. The house of Koman Nair, the only house visible from the scene of offence is situated about 130 yards to the north the house of deceased.

The details of the observations made at the scene of offence is detailed in the observation yadast and the copy of the same is enclosed herewith with.

I closed the investigation at about 05.00 Hrs. Further investigation will continue.

Sd:- J. Anantha Rama.

Sub Inspector of Police,
Hosdrug. 21-5-52.

(13)

153

Police Station. Hosdrug. first information Book No.46/52 Dt. S.K.

Date and place of occurrence 20-5-52 at about 5 A.M. - Malekkal in Panathady Village.

Offence. Section 302, 436 I.P.C. Page. 12.

Date (with hour) on which action was taken.

21-5-52.

09.00 Hrs. to 20.00 Hrs.

I. 20-5-52 - 17.00 Hrs.

II. Talayari Ambu of Panathady.

III. Accused.

1. Kuriyakose S/o Thomman,
2. Ulahannan S/o -do-
3. Thommi S/o -do-

IV & V Nil.

VI. 20-5-52 - P.6.

Witnesses Examined.

9. Raman Nambiar N/o Krishna Nambiyar, Panathady.

10. Parvathi D/o Bellachi. Panathady.

11. Yellikutty W/o A.2.

Record of investigation.

This day I came to Hosdrug and met the Inspector of Police, Kasaragod at the hospital. investigating into the case. I met Rama Nambiar N/o Krishna Nambiar and he is questioned as witness. 9. He stated that he is the maistry under driver Anandan since about a year. Since about a year he has been working at Malekkal on the east of the land in question he has been residing in the house of wit.7. On the night of 19-5-52 he was sleeping on the veranda of the house. P.W.6 had gone to Perundara Kava to attend Ottakal festival on the night of 19-5-52. In the house there were witnesses. 7. and 8-sleeping. At about dawn, cock crying time he heard some hue and cry from the direction of the house of Kunhiraman Nair. He got up and went towards the road side when he noticed the house of Kunhiraman Nair was on fire. He found witnesses 1 to 3 standing and crying a few yards north of house. He found A.1 to A.A.3. nearer their house. He was a raid to go to the scene. After sometime he found deceased, P.Ws 1 to 3 and Parvathi going towards their house. He heard A.1 shouting that they should not remain ther and should quit the place then itself. But Witnesses 1 to 3 and the deceased and the girl did not leave the place and said that they would not quit the place.

When A.1. stabbed the deceased, the deceased ran and fell down when again A.1. stabbed him chasing him. Witness.2. Bellachi ran towards the deceased when A.3. stabbed her. She also found Witness.1. Ambu Nair being stabbed by A2 and Witness.1. too fell down. At the same time he noticed witnesses 3, and Parvathi running towards their house for life. He was afraid to approach the deceased or the injured. After sometime he noticed A.1. to A.3. along with some others pulling out the newly built shed by the accused and throwing to a side and setting fire to it. He then went to the house of Kelu Nair to inform the incident. After giving information to Kelu Nair he went to the Patail. But the time he met the patail he it learnt that the Patail had already sent a report to the police. He then returned to the spot and as directed he accompanied the injured to the hospital.

Then I went to the spot with the Inspector of Police. Panchayat also made further enquiries about the witnesses. I was also present when the Inspector visited the scene of offence and inspected the scene. I questioned witness 10. Parvathi D/o Bellachi. She stated that on the night of 19-5-59 she was sleeping in their house at Chennakad at Panathady along with her mother and others. That day morning accused A.1 to 3 and others came to their land and built a new house, and stayed there for the night. At about cock crying time A.1. came to their house and asked them to quit the land. Witness 1 and deceased and others refused to quit the place. A.1 to A 3 set fire to their house. All the inmates left the house and stood a few yards away under a tree. After sometime they again went towards their house. When A.1. threatened them to leave the place at once, they refused. A.1. stabbed the deceased with a penknife. The deceased ran. A.1. followed him and stabbed again. She along with others raised hue and cry. Her mother ran after the deceased when A.3. stabbed her all over the body. She also noticed A.2. stabbing W.1. when she got afraid and ran away to the road side and from there to her house. She did not return afterwards to the scene.

Then I questioned Yellakutti W/o A.2. She stated that on the night of the occurrence she was sleeping in the newly constructed hut at Chennakad. At about midnight she found about 100 people with torchlight came to their

155

house and surrounded their house. A.1. was not in the house then. He had gone to Kanhangad. She knows Kelu Nair. Kelu Nair, Maniyani entered their house and dragged A.2. and A.3. and tied their hands. Herself and her mother-in-law were ousted out of their house. She seeing this ran out of the house and fell unconscious. After some time she regained consciousness and found their their hut on fire. She could not say who set fire to their house. She then went to her house at Malekal. She did not notice the stabbing incident.

Closed the investigation for the day at 20.00 Hrs. Further investigation will continue.

Sd.

Sub Inspector of Police,
Hosdrug. 21/5/52

Countersigned. This day I have questioned all the witnesses examined by the S.I. on 20-5-52 and 21-5-52 and found that the statements have been correctly recorded.

Sd.

Inspector of Police,
Kasaragod. 21/5/52

Statement recorded during the course of Inquest.

1. M. Kunhiramana Nambiar V.M. of Panathady Village when questioned stated that this day at about 12 noon his Talayari Ambu came to him and informed that he (Talayari) saw Kunhiraman Nair lying dead with injuries at Mulekkal and his father and sister also lying close to him with serious injuries. Further he said that Onnan and Thommi were also lying there with injuries. He took a statement from his Talayari and sent his report to the police station along with the statement of Ambu, the Talayari through another Talayari Krishnan. He then proceeded to the spot and arranged the shifting of the injured to the hospital by bus and waited till the arrival of the police.

W.2. Ambu S/o Ambu, Talayari of Panathady Village. He stated that this day while he was going towards Panathady side for Revenue Collections he saw at about 10 A.M. Kunhiraman Nair S/o Ambu lying dead under neath a tree, his father and sister were also lying with serious injuries on their persons. He also found Onnan and Thommi lying with injuries near the houses which have been burnt on 2 mats.

Sd. J. Anantha Ram.

S.I. C3. 21-5-52.

Police Station. Hosdrug. First information Book No. 46/52 Dt. S.K.

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Inquest Report in C.No.46/52 Sec. 302 and 436 I.P.C.

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I. 1. Chullikere Moideen, Muslim, Merchant, Chullikere in Panathady.
2. Kallara Mammunhi, Muslim, merchant, Kallar in Pamathady.
3. Abdul Rahiman Muslim, Beedi merchant Kanhangad.
4. Ananda, Halepaika, Driver Car MDX 1195 Hosdrug.
5. M. Kunhiraman Nambiar V.M. of Panathady.

II. Kunhiraman Nair, Male Aged about 25 years, Nair by caste, cultivator son of Cheveri Ambu Nair Malekkal in Panathady Village.

III. Bellachi sister of the deceased saw the deceased dead at Chennakad (Malekkal) in Panathady Village on 20-5-52 between 4 A.M. and 5 A.M. i.e. the time that cock first cries.

IV. Bellachi Kunchambi and inmates of the house saw the deceased alive while running from his house at Chennakat in Malekkal in Panathady chased by Kuniakose of Malekkal.

V. 6 5½ in height, dark in colour. One old wound scar about a pice size in the centre of the left thigh at the inner aspect. A old itch scar on the right ankle.

VI. Married.

VII. The body is found lying about 70 feet to the North West to the house where the deceased alleged to have lived with its head towards South, legs towards North on its chest with its face, facing east. Head resting on the right forearm. Left arm bent inwards with its palm underneath the body. Left leg knee facing to the east and bent. Right leg stretched. Blood mixed with mucus passed out of the nostrils and hanging and touching the ground. Blood clots all over the face. A gaping wound in triangular in size about 1¾" in length at the right edge is about 1" and at the left edge is about ¼" almost triangular in size. Right hand forefinger cut across at the centre of phatenge and skin peeled off at the right wrist. A narrow wound about 2½" in length about 3¼" away from the right knee cap to

the lower end of the injury. Skin peeled off at the outer aspect of the knee cap. When the body was turned, blood in the plenty oozed out of the injury at the back. Blood mixed mucus, present both at nostrils and mouth. Eyes sunken and half closed. Mouth is slightly open and Rigor Mortis present all over the body.

Properties: Gold like ear rings are in each ear a white torn blood stained cotton banian with side pocket, a white underwear, a brownish loin cloth a waist cord with 6 lines, blackish in colour at the loins, with a silver talis-man with 5 rings.

VIII. The body is found lying in Chennakat in Malekkal in Panathady Village about 70' to the north west to the deceased's house having its head to the South (Vide Col. VII).

XXX (a) to (c) Nil.

IX. Apparently the deceased would appear to have died due to the stab injuries.

X. By violence apparently by knife.

XI. (a) Kurikose of Malekkal in Panathady Village. Stabbed the deceased to death on account of land dispute. As per the statements of Ambu and Ballachi read on.

(b) Not known.

XII. The corpse is sent for P.M. Examination to ascertain the cause of death.

XIII. The corpse is sent for P.M. Examination to ascertain the exact cause of death by the order of S.I. of Police, Hosdrug through H.C. 555 Srinivasa of Hosdrug Station at about 3 A.M. on 21-5-52.

XIV. Nil.

XV. The Panchayatdars are all of opinion that the deceased died only due to stabbing by sharp instrument.

XVI. 1. 2.

3. 4. H.M. Ananda Rao

5. M. Kunhi Raman Nair.

XVII. ——————————→ Sd.

S.I.C3 21-5-52.

XVIII. Known.

XIX. to XXV. Nil.

XXVI. Duration of inquest - commenced at 1 A.M. to 3.30 d/ 21-5-52.

Sd. J. Anantha Ram
S.I.C3 21-5-52.

Case Diary
House Station F.I.R. No. 46/52 U/S. 302, 436 IPC

163

22-5-52

08.00 Hrs. to 20.00 Hrs.

I. 20-5-52 - 17.00 Hrs.

II. Taluyari Ambu of Panathady.

III. Accused.

1. Kuriyakose.
2. Ulahannan.
3. Thommi.

IV and V. Nil.

VI. 21-5-52-p.8.

VII. Witnesses Exmd.

Wl. Kaikala S/o Kavri Chiruvanthadi in Panathady.
12. Modiran S/o Biran.
13. Belthan S/o Channan.
14. Puthrian S/o Palan
15. Uruvevil Euseph S/o Thomman, Panathady.
16. Kunhappan @ Joseph S/o Mathai, Panathady.
17. Pookamban Mathai S/o Mathai, Panathady.
18. Mathanth Joseph S/o Peter, Panathady.
19. Kelu Nair S/o Sankaran Nair, Karyastha of Nileshwar Raja, Panathady.
A.1. Kuriyakose S/o Thomman, Panathady.
20. Kuruvilla Thekkanat S/o Euseph, Salesman, Rajapuram Co-operative Stores, Echikal, Panathady.

This day investigation is continued in this case at Panathady and in the neighbouring villages.

Wit.11. is Kaikala S/o Kavri, Chiruvanthadi in Panathady. He when questioned stated last Sunday (18-5-52) evening, Kuriyakose's brother came to his house and asked him to come for work along with some others to his land on the day next day. On the next day he along with Belthan, Puthrian Modarin, all his neighbourers went to the house of Kuriyakose at Malekkal at about 8 A.M. and from there they all went to Chennakat to work in the land of A.1. There were about 10 to 20 Christians also for work. They started to build a small shed at about 10 A.M. just on the north eastern corner of the house of the deceased in the same land. Deceased, his father, sister and brothers were putting up in the shed in the same land. He had seen the deceased having his food in their houses. They completed their work by about 4 P.M. Each of them was paid Re. 1/- and were also given one mid-day meal got from the house of A.1. After completing the work they went to their respective houses. He came to know of the occurrence only on the next day morning.

Wit. 12. is Modrin S/o Biran, Chiruvanthadi in Panathady. He when questioned corroborated wit. 11 in all material facts and added that he along with wit 11, and Belthan, Putharian went for work on 19-5-52 (Monday) morning and from there they all went to Chennakat for building a shed. There were about 10 to 20 Christians for work. They built a small shed just to the north east of the house of the deceased. He

He had seen the deceased his father, sister and some others in the house. He along along with others completed building up of a small shed at about 4 P.M. He was paid Rs. 1/- and was also given one mid-day meal. After their work he had left for ho— along with others. He came to know of th occurrence only on the next day.

Wit. 13. is Belthan S/o Channa, Chiruvantady, Panathady. He when questioned stated that on last Monday Morning he along xxx with P.Ws 11, 1 and Puthrain went to the house of A.1. for work at kaxxx about 6 A.M. After working for sometime in the house of A.1. they all xxx went to the l of A.1. at Chennakat in Panathady and began to build a small shed along wi 10 to 20 Christians. They completed the building by about 2 P.M. During that time he had seen the deceased living in the adjacent house along with his father, sister and others. He had also seen the deceased having his food in the same shed. After their work he was paid Re.1/- by A.1. He was also given noon food. After completing their work he went home a with others. He came to know of the occurrance only on the next day morning.

Wit. 14. is Putharian S/o Paran, Panathady. He corroborated P.W.13 in all meterial acts and added that he too had been work in the land of A.1. along with the witnesses mentioned supra and worked there till about P.M. He was paid Re. 1/- on 19-5-52 and left the place. He came to know of the occurrence only on the next day.

Wit.15. is Urunavil Ouseph S/o Thomas, Panathady. He when questioned stated that he lives about ½ mile away from the scene of offence. On 19-5-52 mid-night he heard some cries from the direction of Malekkal. He ran to the direction and stood on the road side. He saw Kely Nair with a stick, Kaman Nair, Chiyyan Raman with a gun, Maniyani with a knife, Abbobakre with a stick and Anekaran with a knife and 100 others setting fire to the house that newly built. Both the houses have been set fire. They after setting fire to the houses left the place. He then went to the place and found Yeli and Yeli Kutti, Ulahannan and Thommi at the place. From there he went Echikal and informed Mani and Thomman about the occurren and asked them to inform A.1. who had gone to Kanhangad. Mani and Thomas went by cycle to Kanhangad. He then returned to his house. He went to the spot in the early morning at about 7 A.M. and found A.2. A.3. Yeli and

Yelikutti sitting just near their burnt house. There were none else at the place. At about 8 A.M. bus people informed about the injured lying at Chennakad. He went to Chennakad and found the injured lying and Kunhiraman lying dead at the place. He also found Ulahannan, Thommi and Yeli were also injured and were lying on mats near their burnt house under a tree. He told the V.M. who was coming to the spot.

P.W.16. is Kunhappan @ Joseph S/O Mathai. He stated that he lives along with his family about 2½ furlongs away from the scene of offence. He came down from Travancore about 6 years back. He has got tapiocca cultivation. On 19-5-52 he had worked in the land of A.1. at Chennakad along with about 15 coolies in building up a shed. He slept in his house for the night. At about midnight he heard a cry from the house ~~xxxxx~~ for the night. At about midnight he heard a cry from the direction of the house newly built ~~xxxxxxxxxxxxxxxxxx~~ at Chennakad. He ran to directio and stood under a tree. He found the newly built shed of A.1. on fire. There were about 150 persons found near the house. Among them he recognise Kelu Nair with a stick, Koman Nair, Thiyyan Raman with a ~~gun~~ gun, Maniyani with knife, Abbabackre with a stick. Anekaran with a knife. There were about 4 to 5 guns wit them. He found the newly built house on fire and th the other of the deceased also catching fire. He could not say as to who set fire to the houses. He left the place and went to his house. On 20-5-52 he after finishing his conji came to Chennakad and found Koman Nair running away from the spot. He found Kunhiraman lying dead under a tree his sister injred lying close to the deceased and his father with serious in juries lying at a distance. He also found A.2. A.3. and their mother with injuries lying on mats under a tree close to their burnt house. He did not witness the occurrence.

P.W.17. Pookambil Mathai S/o Mathai. He stated that he lives about 2½ furlongs away from the scene of occurence. On 19-5-52 midnight he heard cries from the direction of Chennakad. He came out and the houses at Chennakad on fire. He did not visit the place. He when went at about 8.30 A.M. in the morning he found all the injured and Kunhiraman Nair lying dead with serious injuries on their persons at the place. He did not witness the occurrence.

166

P.W.18. Methanath Joseph S/o Peter, Malekkal in Panathady. He stated that he is living about 3 furlongs away from Chennakad. On 19-5-52 he had assisted A.1. in putting up a shed at Chennakad in A.1's land just near the shed of the deceased for A.1. On the same night he was sleeping in his house. At dead of night he heard some cries from the direction of the house of Chennakad. He went running to the spot and stood on the road side. He saw both the houses on fire. Kelu Nair with a stick, Kaman Nair, Thiyyan Raman with a gun, Maniyani with a knife, Abbobakre with a stick and Anakaran with a knife and some others with guns and sticks and about 100 persons were seen at the spot. In the morning at about 8 to 8.30 A.M. he saw Kaman Nair running towards East. He asked him what was the matter. Kaman Nair said 'What all happened'. He went to the spot and found the deceased lying and the other injured people. He could not say anything touching the case.

P.W.19. Kelu Nair S/o Sankaran Nair, Panathady. He stated that he has been the Karayasthe of Nileshwara Raja for the last 8 years. For about 4 years he was at Nileshwar. and for the last 4 years he is at Panathady. About 2 years back i.e. in the year 1949 -50 some land near the Kallar Traveller's Bungalow was given to A.1. for tapioca cultivation and Kumari Cultivation. It was been mentioned in the lease deed executed by A.1. in favour of Raja and signed by Kuriyakose. In the year 1950 Chennakad land of about 5 acres was given on lease to Raman Nair (Kunhiraman Nair) for 12 years at Rs. 0-8-0 per acre. He had collected Rs. 2-8-0 in the year 1951 for 5 acres in the year 1951 of Chennadit and also this year Rs. 2-8-0. He when asked about the records in support of the lease etc. he said that he would produce them either at Kanhangad or at Panathady whenever asked to produce. He denied of having gone to the spot on the night of 19-5-52 along with anybody and set fire to the house.

A.1. P.T. Kuriyakose S/o Thomman was questioned. He stated that he belongs to Travancore, Meenachal Taluk, Puliyannoor, Vallichira Post. His house name is PuliavanarikKal. He came to Panathady in the year 1947. He occupied the land belonging to Rajapuram Colony. He was a salesman in the Rajapuram Co-operative Stores. He is permanently residing at Malekkal Rajapuram Colony. Since his wife had gone home for delivery he got down his mother Yeli to Panathady. His elder brother Ulahanan was with him for the last 2 years and younger brother Thommi for the last 2 months.

He has got 10 acres of land in Rajapuram Colony which are being looked after by his brothers. About 6 years ago he got a land of about 5 acres from Nileshwar Thamburam at Malekkal of Chennakod through Karayastha Kelu Nair. He cultivated tapioca in it. After cultivating last year Kelu said that no land would be given to Christians. He got erected a fence round his land even though Kelu Nair refused permission. After paying varams he came to know that the same land belongs to Kellar Mohammad's son, Anduka who said that it was his for the last 18 years which was given to his father by Nileshwar Thamburan. Anduka said that he would give Theer of the Maruvattam of the land included in it and got from him Rs. 200/- out of Rs. 600/- which is the price of the land. There is an agreement between himself and Anduka, brother Kunhammad and mother Ishumma in 1951. Accordingly he has been cultivating the land. About a month ago he planted about 850 preps for the pepper vines and raised tapioca cultivation when the land was in his possession under Varam right he had erected a shed for keeping implements and watching during night, for pigs. It was a varam.

About 2 weeks ago the deceased, Kunhiraman Nair went there and told that the land was given to him on Maruvattam right and that he should not cultivate there. He told Kunhiraman Nair that it was his and he continued to work there. Soon he brought Kelu Nair. Kelu Nair asked him as to who asked him to plant tapioca. He told Kelu Nair that he got 'Theer' of the Maruvattam. At the instance of Kelu Nair the thatched shed was got repaired and Kunhiraman Nair was made to live there. A few plantain trees were got planted in front of the House. A few preps for pepper vines about 60 in number were also got planted. About 4 to 5 days hence he went and told Ambu Nair and his son, the deceased that the land was his and that they should vacate it. They said that they could not vacate it. They said that they could not vacate it and they were told so by Thamburan.

On 19-5-52 he took some coolies and erected another shed close to the shed occupied by the deceased and attended to cultivation. His mother, Ulahannan, (Onnan) Thommi and coolies were working and after that coolies and himself left the place leaving the other inmates. He came to Kanhangad to get money and halted in the house of M. Keshava Kamatha S.K.C.C. Stores, Hosdrug. He came in a lorry driven by George Seans. Keshava Kamath Kamath and Raja Puram Co-operative Stores Salesman Kuruvilla was also there. On 20-5-52 morning he got information that [illegible], newly built has been

set fire to. He immediately went to the Potail of Panathady. Himsel and Potail came to the scene. There he came to know about the stabbing incident. He denied of having present at the spot on the night or on the morning of 20-5-52 and stabbed the deceased. He further stated that he came to know that his brother, A.2. stabbed the deceased to death. When asked about the records, he said that they are all with Mani. him-self and he would produce the same soon.

P.W.20. Kuruvilla Thekkanat S/o Cusanh. Salesman in Rajapuram Co-operative Stores, Echikol in Panathady. He stated that he belongs to Kidangoo Village in Meenanchal Taluk in Central Travancore. He came to Panathady about 3 years back. He has been working as a salesman in Rajapuram Co-operative Stores since about 3 months. He knows Kuriyakose A.1. eversince he came down to Panathady. On Monday he had been to Kanhangad in Ambu's Taxi (MDX523) in the afternoon. He walked up to Chullikere and gone into the Ra He went to Kanhangad to give the accounts to the F.S.C. about 4 P.M. he reaching Hosdrug gave the accounts to the F.S.C. He waited there thinking that he would get the released rice to the stores but in the evening he was been informed that the rice would be given (to the ~~xxxxxxxxxxxxxxx~~ given) to the next day. He had about Rs. 700/-. He knew Keshava Kamath ever sinc he became a salesman in Rajapuram. He went to the house of Keshava Kamath by about 10 P.M. and handed over the amount to him for safe custody and slept. After an hour later A.1. came there. Keshava Kamath asked A.1. a to what brought him there in that night. A.1.said that he would tell afte wards and slept there on the ground. He got up at about 7 A.M. when he found A.1. still sleeping. He could not say whether A.1. had gone out in the night after he went to bed or not. He had his coffee in the house of Keshava Kamath along with A.1. Thence he along with A1 came up to the bu stand and from there he proceeded in advance towards Kotachery side. Whil going he heard a lorry stopping just at the bus stop and he saw Mani of Echikol getting down from the lorry. He then proceeded to Mangalore to ma some purchases. He came to know of the occurrence only on his return from Mangalore

During the course of investigation I conducted the search of the houses of A.1 as well as of the deceased but nothing incriminating could be found.

Closed the investigation for the day. Further investigation will continue.

169

Sd.

Sub Inspector of Police,
Hosdrug. 22-5-52.

Countersigned. The S.I. has held the investigation under my supervision and at my direction. The statements have been recorded correctly.

Sd.

Inspector of Police,
Kasaragod. 22-5-52.

Case Diary.
Hosdrug Sub F.O.R. No. 46/52

23-5-52.

09.00 Hrs. to 22.00 Hrs.

I. 20-5-52 - 17.00 Hrs.

II. Talayari Ambu, Panathady.

III. 1. Kuriyakose.
2. Ulahannan,
3. Themmi.

IV. & V Nil.

VI. 22.5.52 - P.12.

VII. Witnesses Exad

21. Kallar Anduka S/o Mammad of Kallar in Panathady.
22. George Seane, Driver of Lorry MDX 1823 of C.P. Erumulla of Nileshwar.
23. H. Keshava Kamath S/o Laxmana Kamatha Manager of S.K.C.C. Stores Hosdrug.
24. B. Ananda S/o Chikkamma, Driver of C.K.No. Kanhangad Badge No.240.
25. Driver Laxmana Nayak S/o Krishna Nayak, Badge No. 845 of Banu Motor Service Kanhangad.
26. Ch. Baskara S/o Manjayya, Conductor Badge No.1127 of Banu Service.
27. Dr. Sri M. Keshava Kamath, Hony. Asst Medical Officer L.F. Dispensary, Hosdrug.

Continued investigation in this case. Questioned Kallar Anduka S/o Mammad of Kallar in Panathady as witness. 21. He stated that Chennakad was got from Nileshwar Raja on Marupattam about 18 years ago by his father when his mother was alive. They thought of living there. They dug a well but his mother fell ill about 3 years ago. Kuriyakose began to cultivate the land about 3 years since, after getting permission from them. Kuriyakose ~~xxxxxxxxxxxx xxxx xxxx~~ paid Varam to Raja. He was now given the land in question to Kuriyakose about a year ago on an agreement arrived at by them. He got Rs. 200/- from Kuriyakose out of Rs. 600/- in advance and the remainging Rs. 400/- was also got before registration of the sub lease of the Maruvattam Theer about a month ago. It was got registered about a month ago. He further stated that east of Chennakad belongs to Driver Ananda and south of the same belongs to Issumma female his mother and west belongs to Thambuman and north being L.P. Road. He stated that the ~~xxx~~ scene of occurence in question is in possession Kuriyakose S.I.

P.W.22. is George Seane, Ex-P.C. Driver of Lorry MDX 1823 of C.P. Erumulla was questioned. He stated that on 19-5-52 night about 8 P.M. when he was coming from Kolichal side A.I. stopped the lorry at the 14th mile stone. A.I. came in his lorry up to Keshava Kamath's house and got down in front of Keshava Kamath house. A.I. after getting down from the lorry went towards the house of Keshava Kamath. It was ~~xxxx~~ at about 11 P.M. in

172

the night. He does not know anything further. He came to know of the presence only on the next day. He could not say whether A.1. had returned to Panathady again in the night and returned.

P.W. 23. H. Keshava Kamath S/o Lakshmana Kamath. Manager. S.K.C.C. Stores Hosdrug. He when questioned stated that he came to know Kuriyakose eversid since he became the salesman of Rajapuram Co-operative Stores. He did not see A.1. Kuriyakose on 19-5-52 either in the day time or in the night. A.1. did not come to his house on 19-5-52 night and slept in his house nor did he gave coffee to A.1. on the morning of 20-5-52. On the other hand A.1. had sent a letter dated 19-5-52 in Malayalam saying that he was not in a position to come for two days and meet him. This witness produced a letter alleged to have been sent by A.1. to him which he received from it on 20-5-52 morning at about 10 A.M. through Driver Ananda of C.K.N.S. I seized the same in presence of Panchayatdars. The letter when got translated reads as follows:

"Always Dear Keshava Swami. We some people are going to work for planting tapioca sticks and build a house to live in. (We two are still in this hut) Kelu Nair has gone to Kanhangad. Might be for filing some petitions or so. Please enquire and know of all things. Further Kunhikannan Nambiar and Kumaran Nair, Vakil Sir may also be informed of it. Send some new 10 paxpis maplas by today evening by telling to Sophi or so. It is of much necessity. Further as told you yesterday Rs. 50/- and rice may also be sent. If possible either come this side tomorrow morning or send somebody to know all particulars. (It is at the hut of Kanara and man should help with it, you may know that I am) night for night. Please know that I am in the pit. I cannot come over to that side today or tomorrow. Nothing is known after Kelu Nair returned. Therefore I request, please help me in all possible ways in this respect. Rest in person is possible. Yours P.T.Kuriyakose."

Then I got at Driver Ananda S/o Chikkanna, Driver of C.K.N.S. Bus of Kotachery, badge No. being 240. He is questioned as witness 24. He stated that he has a plot belonging to Nileshwar Raja just on the east of the disputed plot. Towards the east of his plot is the plot belonging to Kallar Mohammad. To the south of his plot is the plot of Issumma. A.1. was not in possession of the disputed plot at any time. Wit. 21. has told him that that the eastern plot belongs to him and there was also some dispute between him and that Anduka with respect to the line of demarcation of the respective

plots. Wit.21 had also warned him that he should not extend his eastern boundary and encroach on his land on the east. He had planted about 1000 props for pepper vines. He had engaged wit.9 to work in the said plot. He knows that P.W.9 is putting up along with Wit.6. ~~xxxxxxxxxxxxxxxxxxxxx~~ He knows A.1. as well as P.W. 23 veryw ell. On 20-5-52 at about 9.30 A.M. he was at Kotachery Bus Stand. When Banu Bus from Panathady side came to Kotachery Bus Stand, Driver Laxmana Nayak of the bus handed over to him a letter to be handed over to P.W.25. Accordingly he handed over the said letter in Malayalam to P.W.25 at about 10 A.M. at S.K.C.C. Stores. He has not read the letter. He does not know Malayalam.

P.W.25 is Laxmana Nayak S/o ~~xxxxxx~~ Krishna Nayak, Driver Badge No. 346 of Banu Service, Kotachery, in Hosdrug. He was questioned. & stated that he knows Kuriyakose, A.1. ever since he ~~xxx~~ came to the line. He has been the driver of Banu Service for the last 4 months doing service from Hosdrug to Panathady. On 19-5-52 while he was coming from Panathady side A.1. stopped the bus at Malekkal and handed over one Malayalam letter and asked him to hand over the letter to Keshava Kamath/ and thus the letter remained with him. He came to Hosdrug but he forgot to hand over the letter to Keshava Kamath
His bus went out of order on that day. The bus which was scheduled to start from Kotachery to Panathady at 6 P.M. could start only at about 2 A.M. on 20-5-52 (In the night of 19-5-52). He reached Panathady only at about 04-30 Hrs. He would have reached Malekkal at about 04.15 Hrs. and he did not hear anything about the stabbib, and the situation was appeared to be quiet. He had seen some light at the site of the scene of offence He could not say whether the light was of burning house or a lantern. He started from Panathady at about 07-00 Hrs on 20-5-52 to make Panathady-Kottachery trip. He when reached Malekkal at about 07.10 Hrs. he saw the deceased lying with injuries, his father with injuries and sister too with several injuries lying at Chonnakad in Malekkal. He had also seen A.2. and their mother lying with injuries on a mats under neath a tree just near the burnt house. He treated them all with water. It appeared as though the offence took place just about an hour back as they were still bleeding. He them came to Kotachery and remembered about the letter given to him by A.1. Driver Ananda was seen at the Bus Stand at Kotachery. He handed over the letter and requested him to hand over the same to S.K.C.C. Stores.

P.W.26. is Ch.Baskara S/o Manjayya, conductor on badge No.1127 of K.K. N.S. and Panu Services. He when questioned stated that on 19-5-52 he was conductor on Bank Service under Ex.P6. The bus which was scheduled to start at 5 P.M. on that day due to mechanical defects could start only at about 02.00 Hrs. on the night of 19-5-52 (In the early morning of 20-5-52) He did not notice anything at Malakkal while proceeding to Panathady. The bus reached Panathady only at about 04.30 Hrs. While returning they would have reached Malakkal at about 07.10 Hrs. He noticed the deceased lying to the north of the house at Cherumakad with bleeding injuries. A.2. A.3. and Yeli, mother of A.2. also were lying just close to the burma houses with some injuries. He could not bear the sight as he was not used to the blood being shed previously. He went away from the scene of seeing the injured from a distance only. It appeared from the fresh blood being bled that the stabbing should have taken place little earlier to their reaching the spot.

P.W.27 is Dr.Sri M. Keshava Pai, Hony. Medical Officer, T.B. Hospital Hosdrug. He when questioned with regard to the injuries found on the injured persons stated that as regards injuries found on injured Ambu Nair's person, all the injuries are due to only sharp instrument or weapon. Bellachi has multiple injuries on her person and they are all due to sharp instrument. No injuries were found on the body of Yeli, mother of A.2. Injuries found on the fingers and hand of A.2. are only due to sharp instrument and not due to any blunt weapon. There were no marks of rope found the wrist seen. It is possible that injuries found on A.2. could be self inflicted so far as they happened to be situated in easily accessible parts. But injury No.2 cuts right down through the bone and also there is no evidence of any hesitation (such as small minor injuries by the side) at the site of any of the injuries. As regards the injuries found on the person of A.3. the injuries No. 1 and 2 are due to sharp instrument in easily accessible situation. It looked as though very superficial and probably self inflicted. As regar the contusion on the right temple greater chances are for self infliction as otherwise one would normally expect it to be on the left temple. It could be only by blunt weapon most probably due to fist blow. Injuries found on Bellachi and Ambu Nair cannot be self inflicted. There were no rope marks on the hands of A.3.even.

Wound Certificates received in respect of injured in this case are embodied herebelow :

"Wounds or injiried found on the person of a female calling herself Bellachi ~~W/o~~ Ambu Nair, Chevari, Aged about 35 years an in habitant of Malekkal Panathady who was sent with a requisition from S.I. Kasdrug and accompanied by P.C. 710 for report as to certain injuries on her person said to have been caused on 20-5-52 at dawn and to be due to violence with a knife at Malekkal Panathady Village. Identification and cable marks: Raised mole at right shoulder just outside outser end of collan bone. The injured person was first seen by the undersigned at 8 P.M. on the 20-5-52 at Bus near Ilengan and the examination was commenced at 11.45 P.M. on the 20-5-52 at the hospital Kasdrug when the following injuries were found.

1. Incised wound 1½" long ¼" broad ½" deep at the outer aspect of middle of left upper arm. 2. Incised wound 2" long ½" broad ½" deep on the palmar aspect of left hand placed horizontaly at the lower end of Hypothenar humar end. 3. Incised wound at the back of le t wrist horizartal at the lower lower end of radius 1" x ¼" x ½" deep. 4. Incised wound between ring and little finger ½" long, ½" deep. 5. Incised wound 1½ long ½ broad ½" deep at the back right shoulder horizantaly. 6. ~~Oblique~~ Incised wound 1¼" long ½" broad ½" deep on the back 2" below lower angle of scapula on the left running from above downwards and without inwards. 7. Incised wound 3" long " broad " deep on the top of the neck running before backwards in the mid line. 8. Incised wound 1½" long " broad " deep 1" to the left of the ~~same~~ injury No. 7. No. 9 Incised wound 1½" long on the forehead 2" above the right eyebrow. ½" x ½" deep. 10. Incised wound at the side of the head 5" above the right ear 1½" long ½" broad " deep transverse.

I am of opinion that the ~~injuries are~~ simple."

2. Wounds or injuries found on the person of a male calling himself Chevari Ambu Nair S/o Raman Nair aged 60 years an inhabitant of Malekkallu Panathady who was sent with requisition from S.I. Kasdrug and accompanied by P.C. 710 for report as to certain injuries on his person said to have been caused on 20-5-52 at dawn and to be due to violence with knife at Chennakady, Malekkal Panathady Gram. Identification and cable marks:- Thumb impression of left thumb. The injured person was first seen by the undersigned at 8 P.M. on the 20-5-52 at Attengan in Bus and the examination was commenced at 1.15 A.M. on the 21-5-52 when the following injuries were found.

1. Incised wound 1" long ½" wide 1" deep vertical on the back at the medial border of right scapula at the level of the spine of scapula. 2. Incised wound ¾" long ½" broad ¼" deep placed transverse on the back the middle of left upper arm. 3. Horizontal stab injury 1" long ½ broad reaching the chest cavity allowing entry and exit of air in Posterior axilly line 4" below inferior angle of scapula left side. 4. Incised wound ½" x ½ x ½" on of right thumb on index finger side.

I am of opinion that. - Nature grievous No.3. - other injuries simple.

3. Wounds or injuries found on the person of a male calling himself Ulahannan P.T. S/o Thamman aged 27 years an inhabitant of Adakkavu Panathady who was sent with a requisition from S.I. Kasarug and accompanied by P.C.710 for report as to certain injuries on his person said to have been caused on 20-5-52 and to be due to violence with a knife and bill hook at about 8 A.M. at Chennakad Panathady Village. Identification and caste marks:- Birth marks 2" behind and sup Iliac spine left side. The injured person was first seen by the undersigned at 8 P.M. on the 20-5-52 and the examination was commenced at 12.15 A.M. on the 21-5-52 when the following injuries were found.

1. Incised wound 1" long ½" x ½" deep on dorsal aspect and ulnar border of wrist at thelower end of ulna. 2. Oblique incised wound 1" long ½" broad ½" deep cutting the 2nd phalangx of index finger of left hand on the thumb side. 3. Incised wound ½" long 1/8" deep at the base of the first phalynx of rt. thumb towards index finger side. 4. Abrasion measuring 7" long oblique above downwards from left to right across the breast bone.

Nature.- grievous No.II Other injuries simple".

4. Wounds or injuries found on the person of a male calling himself P.T. Thomas S/o Thamman aged 24 years an inhabitant of Malekkalu Panathady Village who was sent with the requisition from S.I. Kasarug and accompanied by P.C. 710 for report as to certain injuries on his person said to have been caused on 20-5-52 at about 8 A.M. and to be due to violence with a stick on the head and knife on the lower limbs. Identification caste marks:- 1. Mole just in front of middle of the lobe of left ear. 2. Mole chest level of 2nd rib. 22. of the right of border of breast bone. The injured person was first seen by the under signed at 8.P.M. on the 20-5-52 and examination was commenced at 12.30 A.M. on the 21-5-52, when the following injuries were found.

1. Oblique incised wound 2" long ½" broad 1/8" deep, medial aspect of Rt. thigh 4" above knee without inwardly. 2. Incised wound ½" long just above the knee cap on left leg 1/8" broad and 1/8" deep. 3. Contusion ½" x 1 xxxxxxxxx nearly oval at the rt. scapula. 4. Contusion ½" x 1" x 1" nearly oval on the medial aspect of lower end left ulna.

Nature - Injuries are simple."

5. Wounds or injuries found on the person of a female calling herself Yeli W/o Thamman aged 56 years an inhabitant of Malekkallu Panathady who was sent with requisition from S.I. Hosdrug and accompanied by F.C. 710 at report as to certain injuries on her person said to have been caused on 20-5-52 about 5 hrs after sun rise and to be due to violence with a stick at Chennakad. Identification and caste marks: Thumb impression of left hand taken. The injured person was first seen by the undersigned at 8 P.M. on the 20-5-52 and the examination was commenced at 12.45 A.M. on the 21-5-52 when the following injuries were found.

1. Complains of pain above left wrist. No obvious contusion or injuries were found. 2. Complains of pain left side of the back all over. No obvious injury seen.

Nature of injury - No injuries."

The doubt created by A.1. that he was at Kanhangad on the night of 19-5-52 and he was not at all present during the time of occurence has been disproved from the evidence of witness. 23 and muche more from the letter sent by A.1. to wit 23 which clearly shews that it would not be possible for him to to come for two days to Kanhangad and meet witness. 23. Under the circumstances it is seen that A.1. to A.3. were the real aggressors and did commit the occurence or murder of the the deceased. Hence I arrested A.3. Thammi at about 19.30 Hrs at the L.F. Dispensary Hosdrug and A.1. at 19.45 Hrs near the hospital premises and brought them to station, searched, given food and confined in the lock up at about 21.15 Hrs. The accd. did not complain of any ill-treatment at the hands of the police. I then arrested A.2. at 21.30 Hrs. at Hospital and posted guard of P.Cs 117, 50, 843 and 710.

I seized the blood stained clothes of the deceased and the other injured at the hospital under a yadast and they will be forwarded for Chemical Examiner for test along with the knife seized from A.2.

Closed the investigation for the day at about 22.00 Hrs. further

128

investigation will continue.

Sd. J.A. Ram
Sub Inspector of Police,
Hosdrug.

Countersigned

Sd.

Inspector of Police,
Kasaragod.

24.5.52.

I. 20-5-52 - 17.00 Hrs.

II. Talayeri Ambu.

III. Kuriyakose.

2. Ulahannan.

3. Thommi.

IV & V Nil.

VI. 23-5-52 - P-16.

This day the Civil Assistant Surgeon of the Govt. Hospital, Kasaragod sent the duplicate Post-Mortem Certificate No.6/52 dated 22-5-52 regarding the body of a male aged about 25 years named Kunhiraman Nair. Requisition received at 12.40 P.M. on 21-5-52 from the S.I. of Police, Hosdrug ~~Hosdrug~~ with his letter No. -- dated 21-5-52. Body in charge of Police Constable No. 555 named-

Identification and caste marks:- 1. Scar ¾" diam on inner aspect of rt.thigh about a middle.

The body was first seen by the undersigned at 12.50 P.M. on 21-5-52.

Its condition then was decomposition set in.

Post Mortem commenced at 12-50 P.M. on 21-5-52.

Appearances found at the Post mortem: External. body of a well nourished man about 25 years, dark complexion, feature bloated and rather livid, eyes congested and eye balls/blood through nose. Injuries: 1. Incised wound on rt. side of back 1½" x ½" penetrating the Rt. plural cavity in 6th space starting 1½" to Rt. of midline at level of 6th vertebra and going up and outward. 2. Incised wound on outer side of Rt. thigh at level of knee vertically 2½" x ¾" x 5" deep. 3. Incised wound ¾" x ¼" bone deep on palmar and outer aspect of mid piece of Rt. Indem finger.

Internal:- Heart:- Wt. 7 oz. All chambers empty, blood dark colour.

Lungs:- Rt. 7 oz. much congested. It has a wound on upper vertebral part of lower lobe 1" x ½" x ½" and another of same dimensions ½" above it. Blood present in acivi about 3" around the injuries. Lt. 7 oz. no injuries or congested.

Stomach:- is normal size. Empty of food matter, and about 1 oz. of dark blood present.

182

Liver:- 32 ozs. normal looking.

Spleen:- 7 ozs. Rather longer than normal.

Kidneys:- Each 3 ozs. nil spl.

Intestines:- Nil spl.

Bladder:- Empty.

Brain:- 40 ozs.

Opinion as to cause of death:-

(b) The deceased would appear to have died of shock, haemorrahage and probably simultaneous promoting due to No. 1. injury described.

Sd. J.A. Ram

Sub Inspector of police,
Hosdrug. 24-5-52.

26-5-52.

12.00 Hrs. to 20.00Hrs.

I. 20-5-52 - 17.00 Hrs.

II. Talayari Ambu.

III. Kuriyakose.
Ulahannan.
Thommi

IV and V Nil.

VI. 24-5-52 - P.17.

VII. Witnesses Exmd.

W.28 Kannan Marar
S/o Ambu Marar

W.29 Krishnan Nair
S/o Nittur Kammaran
Nair.

This day I further questioned witness 19. Kelu Nair S/o Sankaran Nair, Karyastha of Nileshwar Raja as regards the claims of the accused and about the records pertaining to the claims. He stated that the accused A. was asking him for the diputed land since last 6 months but he has been repeatedly telling him that since it has been let out to somebody else he could not be given. A.1. was also going to the Raja directly and carrying tales against him with a view to get at the land. The Raja also did not give his consent at any time. A.1. has not done any cultivation so far in the disputed land. A.1. was planting tapioca 2 years ago on the N.E. side of the Kallar T.B. and he has also had ponam cultication at the same place. Raja, the District Board Member had told him about the letter1 received from M.K. Namiar,* Even at that time it has been brought to the notice of A.1. that this disputed land was not covered by his document. A.1. has no manner of right to enter into the land. There are some improvements in the plot covered by the lease in favour of deceased Mohammad. Neither deceased Mohammad nor his successors have exercised any right of possession over the disputed pqpkxkx plot. All along the present Raja as well as hkx his predecessor have been reluctant to lease out land on the road side. The present Raja on principal do not give lands to Travancore people since they are known to create good lot of trouble in the area and when some of them encroached some plot in the last year the Raja also has taken a letter from them undertaking that they would not encroach hereafter. This is a deliberate attempt by A.1. and his set to grab at the land lying on the road side. He also speaks about the adjoining lands and their possession thereof.

* and he has objected the entire land in dispute as well as the mukomidaja land and a petition signed by Raja by K. Namiar

182

This witness then produced before me the following records.

1. Receipt Book Vol.No.VI . Receipt No. 51 granted to the deceased on the collection of Rs. 2-8-0 on 23-4-52 on the disputed land.
2. Receipt Book Vol. X - Receipt No.75 granted to the deceased on the disputed land dated 16-9-1951 for Rs. 2-8-0.
3. Lease deed executed by Kallar Mohammad in favour of Nileshwar Raja in the year 1934 of the Chennakad land.
4. Lease deed book in which it shows A.l. has been given on lease the North Eastern land of the Kallar T.B. for ponam cultivation.
5. Nigadi Pata Jama Books. 2.

From the records it is seen that A.l. had been leased only the north eastern plot of Kallar T.B. for Kumari cultivation.

Witness. 28. is Kannan Marar S/o Ambu Marar, Karayastha of Nileshwar He when questioned stated that he has been the Karyastha of Nileshwar Raja for the last 15 years. He is only to manage the court affairs. Disputed plot was not in the possession of A.l. and it was given to the deceased by the Raja. Though A.l. was asking for the land neither the Raja nor the Karyasthan consented to release the land. The land in which A.l. was cultivating tapioca was on the north eastern side of Kallar T.B. This land was never cultivated by A.l. He also speaks to the adjoining land and the particulars relating to possession. When questioned about some improvements and the construction of the well in the disputed plot he stated that he has heard that some improvements and the well in the disputed land were made by Perundath Koran Nair who has been in possession of the plot directly opposite to the disputed plot on the north. The well was dug about 20 years back with a view to occupy the land by Koran Nair. He heard the same from Krishnan Nair of Pullur Village.

I then got at Krishnan Nair N/o Nittur Kammara Nair, Panathady and questioned him as witness 29. He stated that he is permanently residing in Kodavalth in Pullur Village and he has got lands at Malekkal at Panix Panathady for the last 25 years belonging to Raja and he occassionally living with his brother-in-law (his sister's husband) Perundath Koran Nair who has been in possession of the plot directly opposite to the disputed plot on the north. The well in the disputed plot was dug by his brother-in- law Koran Nair about 20 years back with a view to occupy the land bein

adjoining to his plot but since the then Raja did not consent to his occupation of the land and water was also difficult to get. Nobody occupied that land until the deceased occupied the land about 2 years back with the permission of the Raja.

I then made enquiries about Mani, co-brother of A.1. and Thomas who said to have conveyed information of setting fire to the house of A.1. to A.1. who was alleged to be* with Mani but both of them were not available for questioning.

Made enquiries about the remaing persons mentioned in the complaint of A.2. and they were also not available for questioning. It is learnt that they have made themselves scarce from the village hearing that the police have come to the village.

Closed the investigation for the day. Further investigation will be held.

* to be at Kanhangad and also to take possession of the records of PI which were alleged to be

Sd.

Sub Inspector of Police,
Hosdrug. 26-5-52.

27-5-1952.

I. 20.5.52 - 17.00 Hrs.

II. Talayari Ambu.

III. Kuriyakose.
Ulahannan.
Thommi.

IV and V Nil.

VI. 26-5-52-P.19

VII. Witness Examd.

30. H. Madhava Bhat.
S/o Narayana Bhat,
Shanbhogue of
Panathady.

This day I got at H. Madhava Bhat S/o Narayana Bhat, Shanbogue of Panathady Village and questioned him as witness 30. He stated that he knows the disputed plot very well. He is conversant with the documents of Mohammad, Issumma, Kolichal Moidine and others who have got the adjoining 4 plots of the disputed plot. As per instructions of the C.I. of Police, Kasaragod he has inspected the disputed plot as well as the adjoining ~~xkxds~~ lands and has perpared two plans in respect of the same. The eastern side of the disputed plot is Driver Anandas. On the eastern side of the plot of Driver Ananda there is the I item of 6 acres of land of Mohammad. To the south of the I item of 6 acres of land of Mohammad there is 8 acres of land of Issumma. To the south of Issumma's 8 acres of land 2nd item of 6 acres of land of Mohammad comes in. The I item of Mohammad's plot touches the the road on the northern end. Directly to the opposite to the disputed plot on the northern side of the road there is the plot of Perundartha P.Koran Nair now in the possession of Madhavan Nair Plot Kolichal Moidin falls to the west of the disputed plot. There is an extensive forest ascending to a ~~height~~ height, gradiant of about 3 furlongs on the southern side of the disputed plot and there are no traces of pepper vines or any other improvements. The disputed plot is about 5½ acres. There are pepper vines in the plots identified as included in the document in favour of Mohammd. There are absolutely no traces of any portion of the forest area to the south of the disputed plot having been cultivated or made use of by anybody till now. To the south western side of the plot in question there is a plot of Subramania Iyer

This ~~wk~~ witness produced two plans of the disputed plot with all the details found at the scene of offence.

Records pertaining to the accused's claims were not available for perusal.

Further investigation will continue.

Sd.
Sub Inspector of Police,
Hosdrug. 27-5-52.

2-6-52.

16.00 Hrs. to 17.00 Hrs.

I. 20-5-52-17.00 Hrs.

II. Malayari. Ambu.

III. Kuriyakose.
Ulahannan
Thommi.

IV and V Nil.

VI. 27-5-52- P.21.

VII. Witnesses Exmd.

31. Sri Ravivarma Raja
S/o Ramavarma Raja
Dist. Board Member
Nileshwar.

32. Narashima Nambudari
S/o Sambu Nambudari,
Nileshwar.

This day I visited Nileshwar and questioned Ravivarma Raja S/o Ramavarma Raja, of Nileshwar as witness. 31. He stated that the Raja has got about 8000 acres of land at Panathady. The Panathady property is being managed by witness 19, Kelu Nair, their Karyastha of Panathady. Kely Nair is working Karyastha for the last 8 years. He knows that Chennakad land of about 5 to 5½ acres of plot has been assigned to the deceased about 2 years back on Maruvattam deed. He does not know whether A.1. has been given any land near Chennakad. If A.1. has been assigned any land it would be with Kelu Nair, their Karyastha at Panathady On 25-4-52 A.1. came to Nileshwar and presented a letter from M.K. Nambiar of Kanhangad and requested to lease out Chennakad land, the disputed mixd. land. He told him that he would send a reply to M.K. Nambiar in connection with the letter and said that he would look into the matter. He inspected the plot and the adjoining lands and sent a letter to M.K. Nmabiar saying that the disputed plot is not in the possession of A.1. and that it is not included in accused's dochment or Kallar Mahammad's document. Witness then produced the letter dated 25-4-52 sent by M.K.Nambiar The letter reads as follows:-

"My Dear Sri Raja, - On hearing the ~~bearer~~ bearer and on perusal of the documents he possessI believe some glaring injustice is being done to him by your Karyasthan Kely Nair. Only in the interests of justice I am taking the priveldge of writing to you on his behalf and I am sure that on your being conviced in the matter you will take necessary step to prevent the same. I understand if some immediate steps are not taken in the matter there is even a likely hood of breach of peace taking place. I request you hear the bearer and do the needful in the ~~xx~~ matter immdeiately.

Trust this finds you in the best of health - Thanking you

Yours sincerely,
Sd. M.K. Nambiar".

P.S:- Kindly send a reply through the bearer. - Sd. M.K.N.

The letter produced has been seized for the purpose of further investigation.

Narasimha Nambudari S/o Sambu Nambudari, Nileshwar who was in the house of Nileshwar Raja said that he too was present when A.1. came to the house of Raja. He is questioned as witness 32. He stated that he is a petty land lord of Nileshwar. He is the friend of witness 31. He often visits the house of witness. 31. On 25-4-52 he was in the house of wit. 31. When A.1. came with a letter of M.K. Nambiar of Kanhangad and requested the Raja to lease out some land in Chennakad. P.W. 31 told him that many of the lands in the area were given out to other tenants and would give out the lands after inspection of the lands.

M.K.Nambiar was not available for questioning. He will be questioned.

Sd.

Sub Inspector of Police,
Hosdrug. 2-6-52.

6-6-1952.

I. 20.5.52 - 17.00 Hrs.

II. Talayari Ambu.

III. Kuriyakose.
Ulahannan.
Thommi.

IV and V Nil.

VI. 2-6-1952- P. 22.

VII. Witnesses Examd.

33. M.K.Nambiar N/o M.C. Nambiar, Kanhanagad.

34. Subramania Iyer, Landlord, Pullur.

This day I questioned M.K. Nambiar N/o M.C. Nambiar of Kanhangad with reference to the letter as witness 33. He stated on seeing the letter that it was the latter written by him to Nileshwar Raja, Dist. Board, Member. On 25-4-52 A.l. came to him and requested to give a letter to the Raja to help in getting him a plot at Chennakad. He on perusing A.l.s records wrote a letter to Raja and handed it over to A.l. and also asked him to get a reply. A.l. turned up from Nileshwar and said that the Raja had told him that he would send a reply direct to him. After somedays Raja wrote a reply saying that the disputed land is not in possession A.l. and it has already been given to the deceased. The reply he received was given to A.l.

Wit. 34 Subramania Iyer, Landlord, Pullur. ~~She~~ 185 when questioned whether he has got any land at Panathady. He stated that he has got some lands at Mmxkx Malekkal on the South western side of the disputed land.

Investigation in this case is almost complete. Further investigation if any will be held after consulting A.P.P.II Kasaragod and the Inspector of Police, Kasaragod.

Sd.

Sub Inspector of Police,
Hosdrug. 6-6-52 .

Page 51

121

6-6-52.

I. 20-5-52.

II. Talayari Ambu.

III. Kuriyakose.
Uthannen
Thommi.

IV and V Nil

VI. 6-6-52

This day I further questioned P.W.21 Kallar Anduka who was questioned on 23-5-52 On inspection of the properties by the Shanbogue it is clear that the disputed plot is not included in the assignment executed by this witness in favour of A.1. and it is also evident that he has no idea of the properties comprised in the Kunhikannan in favour of his father. Since his statements made on 23-5-52. contradicting to facts, and the plan prepared by the shanbogue, it is obvious that the witness is siding A.1. and was given a false version about the identity, of the plots ~~xxxxxxxxx~~ Hence he ~~xx he~~ is further questioned with reference to the plots comprised in his document, on the basis of the shanbogue's verification of the plots.

The witness Kallar Anduka now evades the issue and says that he cannot say anything with respect to the Shanbogue's identification and t at before the assignment he did not get the properties identified. He also says that so far as his knowledge goes, he was under the impression that the di plot was included in his document. A.1. also did not ask him to get the plots identified by the Shanbogue prior to the assignment.

Katur Ambu Nair P.W.1 when further questioned, stated that he had sent the deceased to give information to Kelu Nair (~~xxxxxxxx~~) ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ (Karyastha) about the trespass by the accused and the construction of a Pendal in his property at about Noon on the date of occurrence. The deceased returned saying that Kelu Nair has promised to take steps against the ~~dead~~ accused by giving information to the authorities concerned.

Kelu Nair P.W.19 produced the following documents.

1. Lease deed for the Kumari cultivation for the year 11 25
2. ~~xxxxx xxxxxxxxxxx~~ Receipt Book No. VI - Receipt No.5 granted to accused No.1
3. Lease ~~xxxx~~ deed dated 4-5-1928 executed by Hassanar.

4. -do- d/ 4-5-1928 executed by Abdul Rahiman.

5. -do- dated 9-9-1935 -do- Hussainara.

6. -do- executed by Parmadatha Koran dated 7-3-1938.

7. -do- -do- by Kohithall Moidin dated 15-4-1949 for the plot on the western side of the disputed plot.

8. Receipt Book No. 11 of 1927 Receipt No. 77granted to A.1.

P.W.19 when further questioned stated that the deceased had given information about the trespass by the accused at about noon on the date of occurrence and he told him that he would do the necessary in the matter by complaining to the authorities concerned.

The case has been charged today citing the following P.Ws in consultation with A.P.P.II Kasaragod.

1. K. Ambu Nair.

2 Bollambi

3. Ambu Nair son of No. 1.

4. M. Kunhiraman Nambiar.

5. Ambu Taleyari

6. Raman Nair. Mookan Nambiar.

7. Parvathi.

8. Kelu Nair.

9. Kannan Marar.

10. Sooraya Mami Iyer.

11 Sri Rama Varma Raja

11. Sri M.K. Nambiar.

13. Sri M. Madhava Bhat.

14. Krishnand Nair.

15. Kesava Kamath.

16. Dr Ananda.

17. Sri Dr. M. Kesava Pai.

18. Sri E.T.Unni.

19. P.C. 555.

20. Sri K. Kunhi Ahmad. S.M.

20. J. Anantha Rama.

21. P.M. Mohammad.

Sd/.

Inspector of Police, C.

IN THE COURT of THE SESSIONS JUDGE, SOUTH KANARA, MANGALORE.

R.C.

Complainant: State.

Accused: 1. P.T. Kuriyakose [illegible]
Malekkal in Panathady Village

2. P.T. Ulahanan, brother of No. 1.

3. P.T. Thommi @ Thomas, brother of
No. 1 of Malekkal in Panathady.

Charge under Section 302, 326, 324, 447 and 436 I.P.C.
read with Section 34 I.P.C.

Charge against the accused No. 1 noted above is that he on 20-5-52 at about 5 A.M. or about that time at Chennakad in Malekkal in Panathady Village committed murder of Kunhiraman Nair by stabbing with a knife and thereby committed an offence punishable under Secyion 302 I.P.C. and A.2. and A.3. noted above along with No. 1. having committed murder in furtherance of the common intention of all, A.2. and A.3. are also liable for an offence punishable under section 302 I.P.C. read with Section 34 of the I.P.C.

Charge against A.2. is that he on 20-5-52 early morning at about 5 A.M. or about that time at the same place mentioned above voluntarily caused grievous hirt by means of a knife and thereby committed an offence punishable under Section 326 I.P.C.

Charge against A.3. noted above is that he at the same time and place mentioned above voluntarily caused simple hurts by means of a knife to wit. 2, Bellachi female and thereby committed an offence punishable under Section 324 I.P.C.

urther Charge against A.1. to A.3. is that they on 19-5-52 at about 10.00 Hrs. at Chennakad in Panathady Village with the intention of intimidating and annoying Kunhiraman Nair who was lawfully in possession of the plot entered into the land with out any right or consent and thereby committed an offence punishable under section 447 I.P.C.

Further charge against A.1. to A.3. is that tney on 20-5-52 at about 4 A.M. or about that time at Chennakad in Panathady Village in furtherance of a common intention of destroying the house committed mischief by fire by setting fire to the house of Kunhiraman Nair of Chennakad in Panathady Village and thereby committed an offence punishable under Section 436 I.P.C.

MEMORANDUM OF EVIDENCE

Witnesses.	points to prove.
Katur Ambu Nair s/o Cheveri Raman Nair, Kollangal in Panathady Village.	To prove that his son, the deceased Kunhiraman Nair had taken about 5 acres of land of Chennakad in Malekkal in Panathady village from the Nileshwar Thamburan about 2 years back on Maruvattam His son Kunhiraman Raman Nair the deceased had built a house in the said land and lived had planted plantain trees, pepper vines props about 1000 and also some tapioca in the said land. He has been living in the house built by his son since about 3 months along with his daughter Bellachi, younger son Ambu, and the deceased son Kunhiraman Nair. On 19-5-52 at about noon time A.1. to A.3. along with 30 others came to their land and built a shed and came to their house on the north eastern corner and stayed there for the night. Leaving with him one Kunhiraman Nair Kunhiraman Ambu and daughter and grand daughter slept in their house close to the house built by the accused. On 20-5-52 early morning at about 04.00 hrs. A.1. came to his house and asked them to quit the house. He refused to quit. A.1 to A.3. set fire to the house. They ran out and stayed underneath a tree. After some time before dawn they again went to the place when A.1. Kuriyakose said that they should not remain there. They refused to go when A.1 stabbed his son Kunhiraman, Kunhiraman ran, fell down when again Kuriyakose stabbed his son Kunhiraman. His daughter Bellachi went after him crying that her brother was killed when A.3. stabbed her. At that time A.2. stabbed him on the back and sides with a knife. On seeing the accused stabbing witness Ambu Nair and Parvathi ran away from the place. They were all lying in the land itself. After sometime seeing his son dead A.2. and A.3. along with others demolished their newly built house and set fire to it. Next morning at about 10 A.M. Talayari Ambu came there. After some time Potail had visited the place and sent them in a bus to Hosdrug Hospital for treatment etc.
2. Bellachi D/o witness 1. Malekkal in Panathady Village.	To corroborate witness 1. in all respects and to add that she was stabbed by A.3. and her brother Kunhiraman Nair was stabbed By A.1. and her father was stabbed by A.2. etc.,

3. Ambu Nair S/o with. Malekkal in Panathady Village. — To corroborate witness.1. and 2 in all material facts etc.

4. M. Kunhiraman Nair, V.M. of Panathady. — To prove the possession of the land and to prove his report etc.

5. Ambu S/o Ambu, Talayari of Panathady. — To prove that on 20-5-52 while he was going towards Panathady side for Revenue Collection he ~~xxxxxx~~ saw at about 10 A.M. Kunhiraman Nair lying near Ambu Nair (P.W.1) and Bellachi (P.W.2) lying with serious injuries on their person and also A.2. and A.3. lying injured at Malekkal in Panathady Village in the land called Chennakad belonging to Kunhiraman Nair and that he laid information before the V.M. etc.

6. Raman Nambiar S/o Krishnan Nambiar, Malokkal in Panathady. — To prove that he has been ~~xxxing~~ working under Driver Ananda and living in the house of Kammada just opposite to the scene of occurence and also to prove that he did see. A.1. stabbing Kunhiraman Nair to death. A.2. stabbing witness 1. and A.3. stabbing witness 2. ~~xxx~~ and also to prove that the accused A. met fire to their newly built house, etc.,

7. Parvathi, D/o witness 2. Panathady. — To corroborate witness 3 in all material facts etc.

8. Kelu Nair, S/o Sankaran Nair, Karyastha of Nileshwar Raja, Panathady. — To prove that Chennakad in Panathady about 5 acres of land belonging to Nileshwar Raja was leased out to Kunhiraman Nair about 2 years back. A.1. was asking him for the the disputed land since last 6 months but he has been repeatedly telling him that since it has been let out to somebody else he could not be given. A.1. was also going to the Raja directly and carrying tales against him with a view to get at the land. The Raja also did not give his consent at any time. A.1. has not done any cultivation so far in the disputed land. A.1. was planting

196

tapioca 2 years ago on the N.E. side of the Kallar T.B. and he has also had ponam cultivation the same place. Raja the Dist. Board member has told him about the letter received from M.K. Nambiar and he has inspected the entire land in dispute as well as the surrounding land and a proper reply has been sent by P.W. Raja to M.K. Nambiar. Even at that time it has been brought to the notice of A.1. that this disputed land not covered by his document A.1. has no manner of right to enter into the land. There are some improvements in the plot covered by the lease in favour of deceased Mohammad. Neither deceased Mohammad nor his successors have exercised any right of possession over the disputed plot. All along the present Raja as well as his predecessor have been reluctant to lease out the road side. The present Raja on principal ive lands to Travancore people since they are known to create good lot of trouble in the area and when some of them encroached some plot in the last year the Raja also taken a letter from them undertaking that they would not encroach hereafter. This is a deliberate attempt by A.1. and his set to grab at the la lying on the road side. He also speaks about the adjoining land and their possession thereof etc.

9. Kannan Narar N/o Ambu Narar, Karyastha of Nileshwar Raja, Nileshwar

To prove that the disputed land was not in the possession of A.1. and it was given to the deceased by the Raja. Though A.1. was asking for the land neither the Raja nor the Karyasthan consented to release the land. The land in which A.1. was cultivating tapioca was on the north eastern side of Kallar T.B. This land was never cultivated by A.1. He also speaks of the adjoining land and the particulars relating to possession etc.

10. Subramania Iyer, Land lord, Pullur.

To prove that he has got pepper garden in Chennaked area towards the south Western of the disuted land about ½ a mile distant and also to prove that Mohammad has no land to the north of his

land or to the South of the disputed plot etc.

11. Sri Ravivarama Raja H/o Ramavarma Raja, District Board Member, Nileshwar. — To prove the letter 25-4-52 from the M.K. Nambiar, Kottachery and to prove that he has sent a reply to the letter, that the disputed land plot is not in the possession of A.1. and t that it is not included in accused's document etc.

12. M.K. Nambiar N/o M.C. Nambiar, Kanhangad. — To prove his letter to the Raja dated 25-4-52 and also to state that he had received a reply which he had handed over to A.1. and that the A.1. had approached him for the letter etc.

13. Driver Ananda S/o Chikkanna, Badge No. 240 of ~~C.K.N.S.~~ C.K.N.S. Kotachery. — To prove that he has got about 8 acres of land belonging to Nileshwar Raja ~~M~~ just on the east of disputed plot and to the east of his plot is the plot belonging to Mohammad, to the south of his plot is the plot of Laxumma. A.1. was not in possession of the disputed plot at any time. Anduka S/o Monammadha told him that the eastern plot belonging to him and there was also some dispute between him and that Anduka with respect to the line of demarcation of the respective plots. Andu had also warned him that he should not extend his eastern boundary and encroach on his land on the east, that he had planted about 1000 props for the pepper vines. He had engaged P.W. 6 as his servant. P.W. 6 is putting up along with one Kammar just opposite to the scene of occurence. That he knows A.1. very well. On 20-5-52 at about 9.30 A.M. Driver Lakmana Nayak handed over one letter in Malayalam, to be handed over to Keshava Kamath of S.K.C.C. Stores, Hosdrug. He had handed over the letter to Keshava Kamath at about 10 A.M. etc.,

14. Narashimha Nambudari S/o Sambu Nambudari, Nileshwar. — To speak that he was present on 25-4-52 when A.1. brought the letter from P.W.12 and requested that the Raja to lease out some land in Chennakad, that P.W.11 told him that many of the lands in the area were given out to other tenants and would give out the lands after inspection of the lands etc.,

15. H. Madhava Bhat S/o Maranama Bhat Shanbogue Panathady village.

To prove the plan o- the disputed an well as th other properties in the locality ~~of~~ Nos. 274/1 and 36- 212, 273/14. To prove also that on the easte side o- disputed plot is Driver Anandan's. On th eastern side o- the drivers' plot is 6 acres, I item included in the document in favour o- Mohamma on the southern side o- this plot is Issumma's. ~~plot~~ plot o- 6 acres. On the southern side o- Issumma's plot is the second item o- 6 acres o- Mohammad's document. On the eastern side o- Issumma's plot is Belodath Assinar's plot . The road touches the first item o- Mohammad's plot on the north. Directly to the opposite to the disputed plot on the northern side o- the road is Perundar tha P. Koran Nair's plot/is the plot o- Kolichal Moidine. On the southern side o- the disputed ~~plot~~ plot is a forest extensive in area and ascending to a height to gradiant o- about 3 furlongs where there are no traces o- pepper-vines or any other improvements. The disputed plot is about 5½ acres. There are pepper vines in the plots identified as included in the document, in favour o- Mohammad. There are absolutely no traces o- any portion o- the forest area to the south o- ~~the~~ the disputed plot having been cultivated or made use o- by anybody till now etc.,

16. Krishnan Nair N/o Nittur Kammara Nair, Panathady.

To prove that he is permanently residing in Kodavalth in Pullur Village and he has got ~~his~~ lands at Melekkal at Panathady for the last 25 years belonging to Raja and he occassionally ~~his~~ living with his brother-in-law (his sister's husband) Perundath Koran Nair who has been in possession o- the plot directly opposite to the disputed plot on the north. The well in the disputed plot was dug by his brother-in-law Koran Nair, about 20 years back with a view to occupy the land being adjoining to his plot but since the then Raja did not consent to his occupation o- the land and water was also difficult to get. Nobody occupied that land

until the deceased occupied the land about 2 years ago with the permission of the Raja etc.

17. H. Keshava Kamath S/o Lakmana Nayak Manager of S.K.C.C. Stores, Hosdrug.

To prove that he knows A.1. since A.1. was a salesman in the co-operative Stores, Rajapuram. A.1. did not turn up at his house either during the day time or on the night of 19-5-52. That A.1. had sent a letter to him in Malayalam which he received through Driver Ananda of C.M.N. Service on 20-5-52 and to prove the production of the same etc.

18. Driver Laxmana Nayak of Banu Service Kotachery.

To prove that he has been the driver in Banu Service since about 4 months. Eversince he came to know of A.1. On 19.5.52 while he was coming from Panathady side A.1. stopped the bus at Malekkal and handed over one Malayalam letter and asked him to hand over the same to witness.17. He came to Hosdrug but he forgot to hand over the letter to P.W.17. That the bus went out of order. The bus which was scheduled to start from Kotachery to Panathady at about 04.30 Hrs. (5 P.M. early start of at about 2 AM on 20-5-52 - it reached Panathady) He would have reached the scene of occence at about 04.15 Hrs and there he did not hear anything about the stabbing and the situation was appeared to be quiet. He started Panathady at about 07.00 Hrs on 20-5-52 and reached Malekkal at about 07.00 Hrs. When he saw the deceased along with others injured persons lying on the scene of occence. He returned ~~xxxx~~ ~~xxx~~ ~~xxxx~~ to Kotachery and remembered about the letter given to him by A.1. and handed over to Driver Ananda. P.W.13 with a request to hand over the same to wit 17. etc.

19. Dr. Sri H. Keshava Rai Hony. Medical Officer L.F. Hospital, Hosdrug.

To prove the wound certificates in respect of the injuries found on the person of witnesses 1, 2 and accused 2 and 3 etc.

20. Dr. Sri E.T. Unni, Medical Officer, Govt. Hospital, Kasaragod.

To prove the Post Mortem Certificate issued on the post mortem conducted on the body of the deceased etc.

21. P.C.555 Srinivasa of Hosdrug Station.

To prove that he escorted the dead body of the deceased from the scene of occence to L.F. Hospital, Hosdrug etc.

22. Sri K. Kunhi Ahmad, Sub Magistrate, Hosdrug. — To prove the dying Declaration recorded from P.W.1 on the night of 20-5-52 at the hospital etc.

23. J. Anantharam Sub-Inspector of Police, Hosdrug. — To prove his investigation in the case, Seizures made during the investigation etc.,.

24. Janab P.M. Mohammad, Inspector of Police, Kasaragod. — To prove the investigation etc.

~~24xx Rxxx

(K) 201

Current No. 101326 Ch I/53 HOME (Cts.I) Dept.

Condemned prisoner - P. T. KURIAKOSE.

Pro forma showing the relevant dates of the case.

Date of occurrence:	20.5.52
Date of arrest:	23.5.52
Date on which challan was put up in Committing Court:	6-6-52 / 9
Date of committal order by the Committing Magistrate:	18.8.52
Date of commencement of trial in the Sessions Court:	24.11.52
Date of judgment of Session Court:	8.12.52
Date of judgment of High Court:	16-4-53

P 164 C.P.
do.
P 126 & 164 C.P.
P 164 C.P.
do.
P 542 C.P.
P 230 C.P.

Rec 16/5/53.

203

CASE DIARY.

Police Station, Hosdrug. First Information Book No.46/52 ~~of 195~~ District:- South Kanara.

Date and place of occurrence. 20-5-1952 at about 5 A.M. - Malekkal in Panathady Village - 22 Miles East.

Offence. Section 302, 436 I.P.C. Page. 1.

Date (with hour) on which action was taken.	Record of Investigation.
20-5-1952. 17.00 Hrs to 05.00 Hrs. I. 20-5-52 - 17.00 Hrs. II Talayari Ambu of Panathady. III. Accused. 1. Kuriyakose S/o Thomman of Malekkal in Panathady. 2. Ulahannan S/o Thomman brother of No.1. 3. Thommi brother of No.1. IV & V Nil. ~~First~~ C.D. Witnesses Examined. 1. Cheveri Ambu Nair S/o Kokkal Rama Nair, Kollangel in Panathady Village. 2. Bellachi D/o No.1. 3. Ambu Nair S/o No.1. 4. M. Kunhiraman Nambiar J.M. of Panathady 5. Ambu S/o Ambu, Talayari. of Panathady. 6. Thulacheri Koman Nair S/o Raman Nair, Panathady. 7. Kammadath W/o P.W.6. 8. Madhava Nair, brother of No.7. Panathady.	This day at about 12 Noon Talayari Ambu Panathady Village laid information before the V.M. of Panathady Village that this morning as he was going to Panathady he found Kathur Kunhiraman Nair dead, his father Cheveri Ambu Nair and his daughter seriously injured and smeared in blood at Malekkal on the Southern side of the road. Besides this he also found Onnan, Thomman also lying with injuries. Closeby 2 houses have been burnt. On enquiry he learnt that it was due to land dispute. The V.M. of Panathady village recorded the statement of his informant Ambu and sent his occurrence report to the station through his another Talayari Krishnan at about 2-30 P.M. The report of the V.M. along with the statement of his informant Ambu was received by me at the station at 17-00 Hrs. and the same was registered in the F.I.R. as Hosdrug Station Cr.No.46/52 under section 302, 436 I.P.C. Immediately on registering the F.I.R. I sent Express Reports to Inspector of Police, Kasaragod, Dy.S.P. Puttur Sub Division, District Superintendent of Police, S.K. and the Sub Divisional Magistrate, Puttur through P.C. 117 at 5.45 P.M. At about 5.50 P.M. I sent a requisition to the Medical Officer, L.F. Dispensary, Hosdrug through the Sub Magistrate, Hosdrug requesting the Medical Officer to visit the spot and to

conduct the Post Mortem Examination over the dead body lest the body would be liable for decomposition and also with a request to examine the injured and to issue certificates. It was ascertained that the Medical Officer, T.S. Dispensary is on C.Leave and Hony. Medical Officer Dr. Sri.Keshava Pai is in charge of the dispensary. The requisition was then forwarded to Hony. Medical Officer and he returned the same saying that he would not do the Post Mortem Examination as while accepting the Hony. Medical Officer's post he has informed the authorities that he would not conduct a Post Mortem Examination. Then I sent a wire to Medical Officer, Kasaragod to come to Hosdrug and do the needful and also sent and Express Report to him to come to Hosdrug to hold Post Mortem Examination over the dead body through P.C. 117.

Leaving the station at 6.15 P.M. along with the H.Cs 728, P.Cs 555, 50, 710 in a taxi MDX 1195 and went to Kottachery and facing the Hony. Medical Officer Dr. Sri Keshava Pai proceeded to Panathady side. While going we met Bank Motor Service MDX 1866 and ascertained that the injured are being taken to the Hosdrug Hospital for treatment. I stopped the bus at Attengal in Belur II Village and requested the medical Officer Dr. Sri Keshava Pai to examine the injuries. The Doctor on seeing the injured said that the old man with injuries Ambu Nair, P.W.1. has got serious wounds and he should be attended to immediately. Doctor rendered first aid.

I questioned Cheveri Ambu Nair S/o Kookal Raman Nair as witness 1. He stated that he was living at Panathady Village at Kollangal the last 20 years, with his wife, Mani, son Kunniraman Nair, his wife Kunhipennu, daughter Bellachi, her daughter Parvathi, son Ambu. Chennaka in MalekKal in Panathady Village has been taken on lease by his son Kunhiraman Nair, the deceased, about a year ago from Nileshwar Thamburan. Himself his son the deceased Kunhiraman Nair, Bellachi his daughter, Ambu his younger son and Bellachi's daughter Parvathi came and settled in the Chennakat Shed, built by them about 3 months ago. They planted plantain trees, sticks for pepper wines (Murukkan Kali) about 1000 in number and also tapioca. A.1. Kuriayakose was trying to get this land for him. Yesterday at about noon time A.1. to A.3. along with 30 others came to their land and built a small hut just close to their house on the north eastern corner and stayed there for the night. He along with his sons and daughter and grand daughter ~~xxx~~ slept in their house closing the bamboo that door.

After midnight at about cock crying time A.1. Kuriayakose came to his house and asked them to quit the house. He refused to quit. When A.1. to A.3. set fire to his thatched house, they raised hue and cry and ran out and stayed under a tree. After sometime, before dawn, they again went to the place when A.1. Kuriyakose said that they should not remain there. They refused to go when A.1. stabbed his son Kunhiraman, Kunhiraman ran, fell down when Kuriavakose again stabbed him. His daughter Bellachi went after him crying that her brother is killed when A.3. stabbed her. At that time A.2. stabbed him on the back and sides with a knife. On seeing the accd. stabbing, Witness.2 Ambu Nair and Paravathi ran away from the place. They were all lying in the land itself. After sometime seeing his son dead A.2., A.3. Poothankai Mathai, Pookambil Kunhappa, his brother Peter, Methanth Kunhappa, and others demolished their newly built shed and throwing the same a little away to the north on the site set fire to it. Next morning at about 10 A.M. Talayari Ambu came and seeing him went away. Later on Potail and others came to them and arranged to send them by bus to Hosdrug.

Witness.2. Bellachi D/o Ambu Nair, witness.1. who was travelling in the same bus was questioned. She stated that she was living along with W.1. for the last 3 months in the shed put up at Malakkal (Chennakat) in Panathady village. They cultivated plantain trees, tapioca, and erected sticks for the pepper vines etc. in the same land given to them by Nileshwar Raja. A.1. Kuriayakose was trying to get the same land for him. On yesterday at about noon time A.1. to A.3. along with 30 others came to the land and put up a shed close to their house on the north eastern corner and stayed there for the night. They were sleeping in their shed closing the thattie door. After midnight at about cock crying time A.1. came to their house and asked them to quit the place. Witness.1. and other inmates in the house refused to quit. Then A.1. to A.3. set fire to their house. Seeing the house on fire they left the place and went and stayed under a tree, closeby. After sometime before dawn they again went to the place when A.1. Kuriyakose asked them not to remain there They refused to go. When A.1. stabbed her brother Kunhiraman with a knife of about ½ a cubit in size, Kunhiraman ran and fell down at a distance when A.1. again stabbed him at the back. She seeing this cried out and ran after him when A.3. stabbed at her all over the body. She fell down injured. Her father witness.1. began to run away when A.3. stabbed him

Witness.1. too fell down injured. On seeing the accd. stabbing the deceased and herself witness. Ambu, her younger brother and her daughter ran away. After sometime seeing the deceased dead accused A.2. and A.3. along with Pookambin Mathai, his brother Kunhappa, Peter, Mathanthil Kunhappa, Nilatapa Kunhappa, Adivayipillai Kunhappa, Kuikulli Kurivan and about 30 others demolished their newly constructed shed and throwing the smae at a distance set fire to it. They were lying in that position till about 10 A.M. when Talayari Ambu came and seeing them lying went away. They were shifted to Hosdrug in a Bus in the evening by the potail and others.

Witness.3. Ambu Nair S/o Witness.1. who was travelling in the bus and attending on the injured when questioned stated that he was living for the last 3 months in the shed built at Malekkai in Panathady village which was taken on lease by the deceased about a year ago from Nileshwara Thamburan. They had planted plantain trees, tapiocca and sticks for pepper wines in the said land. Yesterday at about 10 A.M. ~~xxx~~ A.1. to A.3. along with Pookamba Mathai, Pookamban Kunhappan, Pookambin Peter, Nilatapara Kunhappa, Methanth Kunhappan, and about 30 others came to their land and built a small thatched shed close to their house on the north eastern side of their house and they stayed there for the night. Witness.1, 2 himself and deceased and daughter of P.W.2. after taking their food slept in their shed closing the thattie door. After midnight at about cock crying time A.1. came to their house and said that they should vacate the house. Witness.1. and other inmates including the deceased refused to vacate. A1. to A3. set fire to their house. Seeing the house on fire himself and other inmates left the house and stayed under a tree closeby. Aftersometime they again went to the place when A.1. asked them to quit the place but they did not. A.1. stabbed his elder brother, Kunhiraman Nair. Kunhiraman ran away and fell down few yards to the north west of the house when again A.1. stabbed him. Seeing this witness 2. raised a cry and ran towards the deceased when A.3. stabbed all over her body. She also fell down. Father, witness.1. who was also going to the place was stabbed by A.2. with a knife. Seeing this he got afraid and ran towards the roadside along with Parvathi daughter of witness.2. He ran towards north and was standing in the northern side of the road from where he noticed that the accd. along with some others whom he could not recognise demolished their newly built house and throwing them a few yards north and set fire to it. He had not seen A.1. after his brother was stabbed by him.

(A.1). He then went to Panathady to inform the Karyastha of Nileshwara Rajam Kelu Nair. After giving information he returned to the place and accompanied the injured to go to Hospital.

I then questioned A.2. Ulahannan S/o Thomman who was also injured and was going to Hosdrug Hospital for treatment in the same bus. He was questioned. He stated that he has been living in Adaka in Panathady Village. His brother Kuriyakose has taken 6 acres of land at Chennakat in Panathady Village belonging to Kallar Mohammade on 'Maruvatham' about 1½ months back. Himself and his brothers jointly cultivated tapiocca plantation in the said land. They have planted about 850 sticks for pepper vines and tapiocca. Portion of the land is still remains uncultivated. Yesterday morning at about 10 A.M. himself, his brother Kuriyakose, Thommi Kaikula of Cherupanangadi, Madaran, Bellathan, Puthanian, Kurimulli Kurian Kurianvalli Ouseph, Poothambil Mathai, His brother Kunhappa, his brother Peter and some others went to the said land and dug small pits for planting tapiocca and built a small shed. At about 4 P.M. himself, his brother Thommi, mother Yeli, his wife Yeli and her 2 daughters stayed in the newly built shed in the said land. The rest of the people mentioned supra went their respective Houses. About one and half week's back Kelu Nair, Karayastha of Nileshwar Thamburan, Kunhiraman S/o Ambu Nair, his brother Kuncham his father Ambu and about 30 others whose names and address not known came the said land and built pendallike house. Kunhiraman S/o Ambu Nair, Kunhambu and females whose names he does not ~~xxxx~~ know began to live in the said house. Yesterday night he saw several torchlights being flashed on the road. Seeing the light on the road Kunhiraman who was living close to their newly built house went towards the light's direction. About 100 strong came towards their house. Some people had guns with them. Seeing them he became unconsicious. Thommi, his brother caught hold of him. Little later he regain consciousness. All those people came there began to cut away the shed put up by them. ~~All these people there began~~ ~~xx~~ He heard them shouting that shoot at them. He went inside the shed. Kelu Nair, Maniyani got into his hsed and catching hold of himself and his brother Thommi gave them in the hands of those standing outside. Their hands were tied but he does not know who tied his hands. His mother and wife were ousted out of the shed and they set fire to the house. He could

not know who set fire to the house. The samans kept inside the house all burnt away. He could see Raman , the previous Karyastha in the light the fire. He could not recognise others but could identify them if seen. After sometime they all left the place. His mother untied his and his brothers hands. They stayed there itself till morning. At about 5 A.M. Kunhirama S/o Katur Ambu Nair, Kunhambu, Thulacheri Koman Nair, Bellachi D/o Ambu Nair and 4 to 5 others whose names he does not know came and Ambu Nair asked them why they have not left the place. Himself and his brother and other inmates said t at the land was got out of Maruvatam and they are living in the same place since about 3 years. They refused to quit the place. Kunhiraman came with a knife and saying that he would stab opened the knife when he held his left hand in front and snatched away the knife by right hand, When he sustained an injury on his left hand. They began to deal blows with the cudjals and he was injured at the hands and head. Then Ambu Nair came and caught hold of him. Bellachi at that time cut his hands. In the meantime he saw his brother. Thommi and mother lying naked on their face. He did not know who had beat them. He thinking that his brother Thommi had dead he tried to extricate from their clutches but they did not leave him and at that time he had stabbed at them, with the knife which was with him. He could not say to whom all it has inflicted. When he opened the knife, Kunhiraman, Bellachi, Ambu Nair had caught hold of him.. He cannot say what he has done afterwards. He would produce the knife wit which he stabbed.

The above statement was recorded by me, read over and got his signature. As the statement disclosed a cognizable offence I sent the statement to the station to register a case Under Section 148, 324 and 436 I.P.C. through P.C. 710.

The knife produced by the accused was seized under a yadast. There were blood stains at the handle and the blade. The same will be sent to court for onward transmission to the Chemical Examiner, Madras.

I rhen questioned A.3 Thommi S/o Thomman, brother of Ulahannan, A.2. who was also travelling with some injuries to the Hospital at Hosdrug in the same bus. He stated yesterday at about 10 A.M. along with A.1. & A.2. and other coolies went to Malekkal in Panathady which was taken on Maruvatha

by his brother A.1. from the sons of Kallar Mohammad and built a new shed just close to the shed of the deceased, Kunhiraman, who was occupying the same for the last about 1½ weeks along with his father, Ambu Nair, sister Bellachi, younger brother Ambu and Parvathi, D/O Bellachi. Kunhiramzn and his father had planted plaintain trees and some sticks for pepper vines in th the same plot. Himself, his brother Ulananman, ~~and Kuriyakose have~~ and Kuriyakose have raised tapiacca cultivation and have planted about 850 sticks for pepper vines in the same plot. At about 4 P.M. they completed the work of building the shed. The workers all left for their respective houses. A.1. Kuriyakose left the place. Himself, his brother, Ulananman, mother Keli, brother's wife Keli and her daughters stayed in the same newly built shed. At about midnight he saw several torch lights flashing on the road, Seeing the light Kunhirama from the neighbouring house went towards the light. Kunhiraman along with 100 people came to their house and asked them quit the house. Himself and his brother refused to quit the house. When Kelu Nair and Maniyani got into their newly built shed and dragged him, and his brother Ulananman and gave them into the hands of some people who were standing outside. He cannot say in whose hand they were given. Their hands were then tied. All of them surrounded the house and demolished and set fire to the same; All the samans inside the house were burnt. Some of them had guns in their hands, some of them had sticks. He also found the house in which the deceased living on fire. He could not say who set fire to the same. Little later they all left the place. They stayed under the tree close to the demolished shed. At about 8 A.M. this day Ambu Nair, his his son Kunhirama, Ambu Nair's daughter Bellachi, son Ambu, Koman Nair and 4 to 5 others whose names he does not know came to them and Ambu Nair asked them why they had not left the place. They said that the land belongs to them as they have taken the same on Maruvatam and they were there for the last 5 years. They refused to quit the place. Kunhirama came with a knife and saying that he would stab, opened the knife when A.2. held his left hand in front just towards the blow and snatched away the knife by right hand. They began to deal blows with cudjals at him. He fell down on the ground unconscious. He did not know what happened afterwards. He said that A.1. had left the place as soon as the shed was complete saying that he would go to Kannaggad. He was removed to Hospital in the bus after the arrival of the Patail.

Questioned Yeli W/O Thomman, mother of A.1. to A.3 who was also travelling in the same bus. She stated that yesterday morning herself along with her 3 sons and some coolies went to Malekal which is in their possession for the last 5 years and built a shed to live in. She also found P.Ws 1 to 3 and deceased living in the house close by in the same land. They remained in the shed newly built for the night. At about midnight they saw several lights on the road side. About 100 strong came and surrounded their house. A.1. was not there then as he had gone to Kanhangad. Kelu Nair, Maniyani entered their house and dragged A.2 and A.3. out of the house and tied their hands. Herself and her daughter-in-law were ousted out of the house. Daughter-in-law seeing this ran away. The people including P.Ws 1 to 3 and others demolished their house and set fire to the same. Some of them had guns, some of them had cudjals and knife etc. in their hands. After setting fire to the house they all left the place. She untied the hands of A.2 and A.3 and remained there itself underneath a tree. At about 8 in the morning Ws. 1 to 3 and deceased along with 4 to 5 others came to their house and Witness.1. asked them why they have left till then. They said that the plot belonged to them as the same was taken on sub-lease and they would not leave the place. When Kunhiraman came with a knife to stab A.2, A.2 wrested that knife when he sustained some injuries on his hand. They all then dealt blows at them and she fell unconscious. She did not notice what happened afterwards. She was then shifted to Hospital after the V.M. arrived at the place.

All the injured were sent in charge of P.C.710 under requisition to the Medical officer for treatment and issue of certificates. The Doctor who came along with us also left in the same bus.

I proceeded to Malekkal in Panathady Village and reached the spot at about 12.30 in the night. I held inquest over the dead body of Kunhirama Nair in the presence of Panchayatdars from 01.00 Hrs. to 03.30 Hrs. at the spot. Inquest report is herewith attached.

The corpse was sent for Post Mortem Examination to Hosdrug in charge of P.C.555 at about 3 A.M. At the inquest I examined witnesses 4 and 5. P.W.4.M. Kunhiraman Nambiar, V.M. of Panathady Village stated that this day at about 12 noon his Talayari Ambu came to him and informed that he (Talayari) saw Kuhhiraman Nair lying dead with injuries at Malekkal and his

father and sister also lying close to him with serious injuries. Further he said that A.2. and A.3. were also lying there with injuries. He took a statement from his Talayari and sent his report to the police station along with the statement of his informant, through Talayari Krishnan at about 2.30 P.M. He then proceeded to the spot and arranged the shifting of the injured to the hospital by bus and waited till the arrival of the police.

P.W.5. is Ambu S/o Ambu, Talayari of Panathady Village. He stated that this day while he was going towards Panathady side for Revenue Collection he saw at about 10 A.M. Kunhirama Nair S/O Ambu lying dead underneath a tree, his father and sister were also lying with serious injuries on their persons. also found A.2. and A.3. lying with some injuries near the houses which have been burnt.

P.W.6 is Kaman Nair N/O Raman Nair, Malekkal in Panathady Village. He stated that he lives in the house of his wife. Kammadath just opposite to the house of the deceased on the north of the Hosdrug-Panathady road. He knows that Witness.1.,2, 3 and the deceased were living in Malekkal (Chennakat) for the last 3 months erecting a shed. In his house there are his wife, Kammadath and Her brother Madhavan Nair, who has been suffering from eye disease and Rama Nambiar working under Driver Ananda who has taken up land just close to the Chennakat also used to stay with them. Yesterday he had been to Ottakol at Purundarakavu last night. He did not witness the occurrence. He came to know about the occurrence only on his return. He also stated that the deceased had married his sister-in-law.

P.W.7 is Kammadath W/O P.W.6 who is living about 50 yards to the north from the road side. She stated that her husband P.W.6 had gone to Purundarakavu to attend a Ottakolan festival. Her brother Madhavan Nair and Raman Nambiar working under Driver Ananda were at home. Yesterday early morning she heard some hue and cry from the direction of Chennakat and burning of houses. She did not come out of the house and she was afraid. Her brother also did not go out as he was suffering from bad eye disease. Rama Nambiar who was sleeping on the veranda had witnessed the occurrence.

I made enquiries about Ramana Nambiar and learnt that he had gone to Hosdrug to attend on the injured.

P.W.8 Madhavan Nair Brother of P.W.7 when questioned stated that he is suffering from eye disease for the last 3 months and is under treatment

under a doctor at Mangalore. Last night (Night of 19-5-52) his brother-in-law had gone to Purundarakavu for ottakol Festival. Himself and his sister were alone in the house. Last night they heard hue and cry and burning of house from the Chennakat side. He did not go out as he was suffering from the eye disease. I found his eyes in a bad condition and is really not in a position to see anything clearly. Rama Nambiar who was sleeping on the verandah of their house had witnessed the occurrence. He came to know of the occurrence in the morning.

I inspected the scene of occurrence and prepared an observation yadast in presence of the witnesses. Copy of the same is attatched. The seene of crime is at a place called Chennakat in Panathady Village on the right side of the road proceeding from Hosdrug to Panathady near 17/6 Mile-Stone. It lies about 150 ft. away on the southern side of the road and marks of burnt houses are visible. The foundation of the house is 18'X8' 2" in which the deceased was alleged to have put up. A hearth made of 5 stones lies on the northern side. It is observed that 9 wooden pillars have been burnt. There is a flat grinding stone of 21" x 12". An iron ladle half burnt found at the foundation of the house as well as burnt squash guard at the foundations. 6 stums, 3 poles (burnt), flat griding stone with roller, a burnt squash guard, 5 stones of hearth, iron ladle, burnt wooden pillars, 'Heramane instrument to scrape coconut kernel, burnt tins etc. were seized from this foundation.

From this house on the north eastern side about 7½' away there is a foundation of a newly built house which is about 15'.x 11½'. 8 wooden pillars alleged to have been rooted out and one of the pillar about 6½" in length and its top portion has been cut are seen on this foundation. Copper cauldron weighing about 1 maund, another copper cauldron 4 lbs. in weight, a copper vessel weighing about 6 lbs. and another copper vessel weighing 4 lbs. iron old plates 3, and other house hold articles etc., etc. found on the foundation of the newly built house were seized. In this house A.1. and his family were alleged to have been living. Two mats about 10' away from the newly built house in which blood stains were seen and on which A.2. A.3. and mother of the accd. alleged to have laid down were also seized. About 10' to the north of this house it is seen some of the pillars cudjan leaves and other materials of the house were seen burnt.

Some remais of the burnt pieces were seized.

The deceased was found lying about 70' to the North West away from the house of the deceased. P.W.2. was alleged to have been lying close to the deceased. About 45' North West of the house W.1. was alleged to have lying ~~xxxxxxx~~ on a mat. The mat~~xxx~~ on which W.1. alleged to have been lying was found smeared with blood. The mat has been seized. Mud smeared with blood from the place where the deceased found lying was also seized. There is a well about 135 feet to the west.

At the land in question there are plantain trees, tapioca cultivation and sticks for pepper vines. The house of Koman Nair, the only house visible from the scene of offence is situated about 100 yards to the nort of the house of deceased.

The details of the observations made at the scene of offence is detailed in the observation yadast and the copy of the same is enclosed herewi~~xx~~h with.

I closed the investigation at about 05.00 Hrs. Further investigation will continue.

Sd. J. Ananthan Rama.

Sub Inspector of Police,
Hosdrug. 21-5-52.

(45)

215

Police Station. Hosdrug. First information Book No.46/52 Dt. S.K.

Date and place of occurrence 20-5-52 at about 5 A.M. - Malekkal in Panathady Village.

Offence. Section 302, 436 I.P.C. Page. 12.

Date (with hour) on which action was taken.	Record of investigation.
21-5-52 09.00 Hrs. to 20.00 Hrs. I. 20-5-52 - 17.00 Hrs. II. Talayari Ambu of Panathady. III. Accused. 1. Kuriyakose S/o Thomman, 2. Ulahannan S/o -do- 3. Thommi S/o -do- IV & V Nil. VI. 20-5-52 - P.6. Witnesses Examined. 9. Raman Nambiar N/D Krishna Nambiyar, Panathady. 10. Parvathi D/o Bellachi. Panathady. 1 . Yellikutty W/o A.2.	This day I came to Hosdrug and met the Inspector of Police, Kasaragod at the hospital, investigating into the case. I met Rama Nambiar N/o Krishna Nambiar, and he is questioned as witness. 9. He stated that he is the maistry under driver. Anandan since about a year. Since about a year he has been working at Malekkal on the east of the land in question he has been residing in the house of wit.7. On the night of 19-5-52 he was sleeping on the veranda of the house. P.W.6 had gone to Perundara kava to attend Ottakal festival on the night of 19-5-52. In the house there were witnesses. 7. and 8 sleeping. At about dawn, cock crying time he heard some hue and cry from the direction of the house of Kunhiraman Nair. He got up and went towards the road side when he noticed the house of Kunhiraman Nair was on fire. He found witnesses 1 to 3 standing and crying a few yards north of house. He found A.1 to A.A.3. nearer their house. He was afraid to go to the scene. After sometime he found deceased, P.Ws 1 to 3 and Parvathi going towards their house. He heard A.1 shouting that they should not remain there and should quit the place then itself. But Witnesses 1 to 3 and the deceased and the girl did not leave the place and said that they would not quit the place.

When A.1. stabbed the deceased, the deceased ran and fell down when again A.1. stabbed him chasing him. Witness.2. Bellachi ran towards the deceased when A.3. stabbed her. She also fell down. He also found Witness.1. Ambu Nair being stabbed by A2 and witness 1. too fell down. At the same time he noticed witnesses 3 and Parvathi running towards their house for life. He was afraid to approach the deceased or the injured. After sometime he noticed A.1. to A.3. along with some others pulling out the newly built shed by the accused and throwing to a side and setting fire to it. He then went to the house of Kelu Nair to inform the incident. After giving information to Kelu Nair he went to the Potail. But the time he met the potail he learnt that the Potail had already sent a report to the police. He then returned to the spot and as directed he accompanied the injured to the hospital.

Then I went to the spot with the Inspector of Police, Kasaragod and made further enquiries about the witnesses. I was also present when the Inspector visited the scene of offence and inspected the scene. I question witness 10. Parvathi D/o Bellachi. She stated that on the night of 19-5-52 she was sleeping in their house at Chennakad at Panathady along with her mother and others. That day morning accused A.1 to 3 and others came to their land and built a new house, and stayed ~~kkkkk~~ there for the night. At about cock crying time A.1. came to their house and asked them to quit the land. Witness 1 and deceased and others refused to quit the place. A.1 to A 3 set fire to their house. All the inmates left the house and stood a few yards away unde a tree. After sometime they again went towards their house. When A.1. threatened them to leave the place at once, They refused. A.1. stabbed the deceased with a penknife. The deceased ran. A.1. followed him and stabbed again. She along with others raised hue and cry. Her mother ran after the deceased when A.2. stabbed her all over the body. She also noticed A.2. stabbing W.1. when she got afraid and ran away to the road side and from there to her house. She did not return afterwards to the scene.

Then I questioned Yelikutti W/o A.2. She stated that on the night of the occurrence she was sleeping in the newly constructed hut at Chennakad. At about midnight she found about 100 people with torchlight came to their

House and surrounded their house. A.1. was not in the house then. He had gone to Kanhangad. She knows Kelu Nair. Kelu Nair, Maniyani entered their house and dragged A.2. and A.3. and tied their hands. Herself and her mother-in-law were ousted out of their house. She seeing this ran out of the house and fell unconscious. After some time she regained conciousness and found their hut on fire. She could not say who set fire to their house. She then went to her house at Malekal. She did not notice the stabbing incident.

Closed the investigation for the day at 20.00 Hrs. Further investigation will continue.

Sd.

Sub Inspector of Police,
Hosdrug. 21/5/52

Countersigned. This day I have questioned all the witnesses examined by the S.I. on 20-5-52 and 21.5.52 found that the statements have been correctly recorded.

Sd.

Inspector of Police,
Kasaragod. 21/5/52

~~Page. 17.~~ 219

Statement recorded during the course of Inquest.

1. M. Kunniramana Nambiar V.M. of Panathady Village when questioned stated that this day at about 12 noon his Talayari Ambu came to him and informed that he (Talayari) saw Kunniraman Nair lying dead with injuries at Malekkal and his father and sister also lying close to him with serious injuries. Further he said that Onnan and Thommi were also lying there with injuries. He took a statement from the Talayari and sent his ~~xp~~ report to the police station along with the statement of Ambu, the Talayari through another Talayari Krishnan. He then proceeded to the spot and arranged the shifting of the injured to the hospital by bus and waited till the arrival of the police.

W.2. Ambu S/o Ambu, Talayari of Panathady Village. He stated that this day while he was going towards Panathady side for Revenue Collections he saw at about 10 A.M. Kunhiraman Nair S/o Ambu lying dead under neath a tree, his father and sister were also lying with serious injuries on their persons. He also found Onnan and Thommi lying with injuries near the houses which have been burnt on 2 mats.

Sd. J. Anantha Ram.

S.I. C3. 21-5-52.

Police Station. Hosdrug. First information Book No. 46/52 Dt. S.K.

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Inquest Report in C.No.46/52 Sec. 302 and 436 I.P.C.

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I. 1. Chalikere Moideen, Muslim, Merchant, Chalikere in Panathady.
2. Kaldara Mammunhi, Muslim, merchant, Kallar in Panathady.
3. Abdul Rahiman Muslim, Beedi merchant Kanhangad.
4. Ananda, Halepaika, Driver Car MDX 1195 Hosdrug.
5. M. Kunhiraman Nambiar V.M. of Panathady.

II. Kunhiraman Nair, Male Aged about 25 years, Nair by caste, cultivator son of Cheveri Ambu Nair, Malekkal in Panathady Village.

III. Bellachi sister of the deceased saw the deceased dead at Chennakad (Malekkal) in Panathady Village on 20-5-52 between 4 A.M. and 5 A.M. i.e. the time that cock first cries.

IV. Bellachi Kunchambi and inmates of the house saw the deceased alive while running from his house at Chennakat in Malekkal in Panathady chased by Kuniakose of Malekkal.

V. ~~5½~~ 5½" in height, dark in colour. One old wound scar about a pice size in the centre of the left thigh at the inner aspect. A old itch scar on the right ankle.

VI. Married.

VII. The body is found lying about 70 feet to the North West to the house where the deceased alleged to have lived with its head towards South, legs towards North on its chest with its face, facing east. Head resting on the right forearm. Left arm bent inwards with its palm underneath the body. Left leg knee facing to the east and bent. Right leg stretched. Blood mixed with mucus passed out of the nostrils and hanging and touching the ground. Blood clots all over the face. A gaping wound in triangular in size about 1⅝" in length at the right edge is about 1" and at the left edge is about ¼" almost triangular in size. Right hand forefinger cut across at the centre of phatenge and skin peeled off at the right wrist. A narrow wound about 2½" in length about ¾" away from the right knee cap to-

the lower end of the injury. Skin peeled off at the outer aspect of the knee cap. When the body was turned, blood in plenty oozed out of the injury at the back. Blood mixed mucas, present both at nostrils and mouth. Eyes sunken and half closed. Mouth is slightly open and Rigar Mortis present all over the body.

Properties: Gold like ear rings are in each ear a white, torn blood stained cotton banian with side pocket, a white underwear, a brownish loin cloth a waist cord with 6 lines, blackish in colour at the joins, with a silver talis-man with 5 rings.

VIII. The body is found lying in Chennakat in Malekkal in Panathady Village about 70' to the north west to the deceased's house having its head to the South (Vide Col.VII).

XXX (a) to (c) Nil.

IX. Apparently the deceased would appear to have died due to the stab injuries.

X. By violence apparently by knife.

XI.(a) Kuriyakose of Malekkal in Panathady Village. Stabbed the deceased to death on account of land dispute. As per the statements of Ambu and Ballachi read on.

(b) Not known.

XII. The corpse is sent for P.M. Examination to ascertain the cause of death.

XIII. The corpse is sent for P.M. Examination to ascertain the exact cause death by the order of S.I. of Police, Hosdrug through P.C. 555 Srinivasa of Hosdrug Station at about 3 A.M. on 21-5-52.

XIV. Nil.

XV. The Panchayatdars are all of opinion that the deceased died only due to stabbing by sharp instrument.

XVI. 1. X X X 2. X X X

3. X X X 4. H.M. Ananda Rao

5. M. Kunhi Raman Nair.

XVII. ——————————→ Sd.

S.I.C3 21-5-52.

XVIII. Known.

XIX. to XXV. Nil.

XXVI. Duration of inquest - commenced at 1 A.M. to 3.30d/ 21-5-52.

Sd. J. Anantha Ram
S.I.C3 21-5-52.

Case Diary
Hosdurg Station F.I.R. No. 46/52 U/S 302, 436 I.P.C.

22-5-52

08.00 Hrs. to 20.00 Hrs.

I. 20-5-52 - 17.00 Hrs.

II. Talayari Ambu of Panathady.

III. Accused.

1. Kuriyakose.
2. Ulahannan.
3. Thommi.

IV and V. Nil.

VI. 21-5-52-p.8.

VII. Witnesses Examd.

11. Kaikala S/o Kavri Chiruvanthadi in Panathady.
12. Madiran S/o Biran.
13. Belthan S/o Channan.
14. Puthrian S/o Palan
15. Urumavil Ouseph S/o Thomman, Panathady.
16. Kunhappan @ Joseph S/o Mathai, Panathady.
17. Pookamban Mathai S/o Mathai, Panathady.
18. Methanth Joseph S/o Peter, Panathady.
19. Kelu Nair S/o Sankaran Nair, Karyastha of Nileshwar Raja, Panathady.

A.1. Kuriyakose S/o Thomman, Panathady.

20. Kuruvilla Thekkanat S/o Ouseph, Salesman, Rajapuram Co-operative Stores, Echikal, Panathady.

This day investigation is continued in this case at Panathady and in the neighbouring villages.

Wit.11. is Kaikala S/o Kavri, Chiruvanthadi in Panathady. He when questioned stated last Sunday (18-5-52) evening, Kuriyakose's brother came to his house and asked him to come for work along with some others to his land on the next day. On the next day he along with Belthan, Puthrian Madarin, all his neighbourers went to the house of Kuriyakose at Malekkal at about 8 A.M. and from there, they all went to Chennakat to work in the land of A.1. There were about 10. to 20 Christians also for work. They started to build a small shed at about 10 A.M. just on the north eastern corner of the house of the deceased in the same land. Deceased, his father, sister and brothers were putting up in the shed in the same land. He had seen the deceased having his food in their houses. They completed their work by about 4 P.M. Each of them was paid Re. 1/- and were also given one mid-day meal got from the house of A.1. After completing the work they went to their respective houses. He came to know of the occurrence only on the next day morning.

Wit. 12. is Madrin S/o Biran, Chiruvanthadi in Panathady. He when questioned corroborated wit. 12 in an all material facts and added that he along with wit. 11, and Belthan, Puthanian went for work on 19-5-52 (Monday) morning and from there they all went to Chennakat for building a shed. There were about 10 to 20 Christians for work. They built a small shed just to the north east of the house of the deceased. He

He had seen the deceased his father, sister and some others in the house. He along along with others completed building up of a small shed at about 4 P.M. He was paid Re. 1/- and was also given one mid-day meal. After their work he had left for home along with others. He came to know of the occurrence only on the next day.

Wit. 13. is Belthan S/o Channa, Chiruvantady, Panathady. He when questioned stated that on last Monday Morning he along with P.Ws 11, 12 and Puthrain went to the house of A.1. for work at about 8 A.M. After working for sometime in the house of A.1. they all went to the land of A.1. at Chennakat in Panathady and began to build a small shed along with 10 to 20 Christians. They completed the building by about 4 P.M. During that time he had seen the deceased living in the adjacent house along with his father, sister and others. He had also seen the deceased having his food in the same shed. After their work he was paid Re.1/- by A.1. He was also given noon food. After completing their work, he went home along with others. He came to know of the occurrence only on the next day morning.

Wit. 14. is Putharian S/o Palan, Panathady. He corroborated P.W.13 in all meterial facts and added that he too had been for work in the land A.1. along with the witnesses mentioned supra and worked there till about 4 P.M. He was paid Re. 1/- on 19-5-52 and left the place. He came to know of the occurrence only on the next day.

Wit.15. is Urunavil Cusepn S/o. Thomas, Panathady. He, when questioned stated that he lives about ½ mile away from the scene of offence. On 19-5-52 mid-night he heard some cries from the direction of Malekkal. He ran to the direction and stood on the road side. He saw Kely Nair with a stick, Koman Nair, Thiyyam Raman with a gun, Maniyani with a knife, Abbobakre with a stick and Anekaran with a knife and 100 others setting fire to the house that newly built. Both the houses have been set fire. They after setting fire to the houses left the place. He then went to the place and found Yeli and Yeli Kutti, 'Ulahannan and Thommi at the place. From there he went Echikal and informed Mani and Thomman about the occurrence and asked them to inform A.1. who had gone to Kanhangad. Mani and Thomas went by cycle to Kanhangad. He then returned to his house. He went to the spot in the early morning at about 7 A.M. and found A.2. A.3. Yeli and

Yelikutti sitting just near their burnt house. There were none else at the place. At about 8 A.M. bus people informed about the injured lying at Chennakad. He went to Chennakad and found the injured lying and Kunhiraman lying dead at the place. He also found Ulahannan, Thommi and Yeli were also injured and were lying on mats near their burnt house under a tree. He told the V.M. who was coming to the spot.

P.W.16. is Kunhappan @ Joseph S/O Mathai. He stated that he lives along with his family about 2½ furlongs away from the scene of offence. He came down from Travancore about 6 years back. He has got tapioca cultivation. On 19-5-52 he had worked in the land of A.1. at Chennakad along with about 15 coolies in building up a shed. He slept in his house for the night. At about midnight he heard a cry from the house ~~xxxxx~~ ~~xxxxx~~ for the night. At about midnight he heard a cry from the direction of the house newly built ~~xxxxxxxxxxxxxxxxxxxx~~ at Chennakad. He ran to direction and stood under a tree. He found the newly built shed of A.1. on fire. There were about 150 persons found near the house. Among them he recognised Nelu Nair with a stick, Koman Nair, Thiyyan Raman with a ~~xxx~~ gun, Maniyani with knife, Abbabackre with a stick. Anekaran with a knife. There were about 4 to 5 guns wit them. He found the newly built house on fire and then the other of the deceased also catching fire. He could not say as to who set fire to the houses. He left the place and went to his house. On 20-5-52 he after finishing his conji came to Chennakad and found Koman Nair running away from the spot. He found Kunhiraman lying dead under a tree his sister injred lying close to the deceased and his father with serious injuries lying at a distance. He also found A.2. A.3. and their mother with injuries lying on mats under a tree close to their burnt house. He did not witness the occurrence.

P.W.17. Pookamthil Mathai S/o Mathai. He stated that he lives about 2½ furlongs away from the scene of occurence. On 19-5-52 midnight he heard cries from the direction of Chennakad. He came out and the houses at Chennakad on fire. He did not visit the place. He when went at about 8.30 A.M. in the morning he found all the injured and Kunhiraman Nair lying dead with serious injuries on their persons at the place. He did not witness the occurrence.

P.W.18. Methanath Joseph S/o Peter, Malekkal in Panathady. He stated that he is living about 3 furlongs away from Chennakad. On 19-5-52 he had assisted A.1. in putting up a shed at Chennakad in A.1's land just near the shed of the deceased for A.1. On the same night he was sleeping in his house. At dead of night he heard some cries from the direction of the house of Chennakad. He went running to the spot and stood on the road side. He saw both the houses on fire. Kely Nair with a stick, Koman Nair, Thiyyan Raman with a gun, Maniyani with a knife, Abbobakre with a stick and Anekaran with a knife and some others with guns and sticks and about 100 persons were seen at the spot. In the morning at about 8 to 8.30 A.M. he saw Kaman Nair running towards East. He asked him what was the matter. Kaman Nair said 'What all happened!'. He went to the spot and found the deceased lying and the other injured people. He could not say anything touching the case.

P.W.19. Kelu Nair S/o Sankaran Nair, Panathady. He stated that he has been the Karayastha of Nileshwara Raja for the last 8 years. For about 4 years he was at Nileshwar. and for the last 4 years he is at Panathady. About 2 years back i.e. in the year 1949 -50 some land near the Kallar Traveller's Bungalow was given to A.1. for tapiocca cultivation and Kumari Cultivation. It has been mentioned in the ~~xxxxxxxxx~~ lease deed executed by A.1. in favour of Raja and signed by Kuriyakose. In the year 1950 Chennakad land of about 5 acres was given on lease to Raman Nair (Kunhiraman Nair for 12 years at Rs. 0-8-0 per acre. He has collected Rs. 2-8-0 in the year 1951 for 5 acres in the year 1951 of Chennadat and also this year Rs. 2-8-0. He when asked about the records in support of the lease etc. he said that he would produce them either at Kanhangad or at Panathady whenever asked to produce. He denied of having gone to the spot on the night of 19-5-52 along with anybody and set fire to the house.

~~xxxx~~ A.1. P.T. Kuriyakose S/o Thomman was questioned. He stated that he belongs to Travancore, Meenachal Taluk, Puliyannoor, Vallichira Post. His house name is Puliayanarikkal. He came to Panathady in the year 1947. ~~xxx~~ He occupied the land belonging to Rajapuram Colony. He was a salesman in the Rajapuram Co-operative Stores. He is permanently residing at Malekkal Rajapuram Colony. Since his wife had gone home for delivery he got down his mother Yeli to Panathady. His elder brother Ulahanan was with him for the last 2 years and younger brother Thommi for the last 2 months.

He has got 10 acres of land in Rajapuram Colony which are being looked after by his brothers. About 3 ~~xxxxxx~~ years ago he got a land of about 6 acres from Nileshwar Thamburam at Malekkal of Chennakad through Karayastha Kelu Nair. He cultivated tapiocca in it. After cultivating last year Kelu said that no land would be given to Christians. He got erected a fence round his land even though Kelu Nair refused permission. After paying varams he came to know that the same land belongs to Kallar Mohammad's son, Anduka who said that it was his for the last 18 years which was given to his father by Nileshwar Thamburan. Anduka said that he would give Theer of the Maruvattam of the land included in it and got from him Rs. 200/- out of Rs. 600/- which is the price of the land. There is an agreement between himself and Anduka, brother Kunhammed and mother Issumma in 1951. Accordingly he has been cultivating the land. About a month ago he planted about 850 props for the pepper vines and raised tapiocca cultivation when the land was in his possession under Varam right he had erected a shed for keeping implements and watching during night for pigs. It ~~xxx~~ was not a Karaka.

About 2 weeks ago the deceased, Kunhiraman Nair went there and said that the land was given to him on Maruvattam right and that he should not cultivate there. He told Kunhiraman Nair that it was his and he continued to work there. Soon he brought Kelu Nair. Kelu Nair asked him as to who asked him to plant tapiocca. He told Kelu Nair that he got 'Theer' of the Maruvattam. At the instance of Kelu Nair the thatched shed was got repaired and Kunhiraman Nair was made to live there. A few plantain trees were got planted in front of the house. A few props for pepper vines about 60 in number were also got planted. About 4 to 5 days hence he went and told Ambu Nair and his son, the deceased that the land was his and that they should vacate it. They said that they could not vacate it. They said that they could not vacate it and they were told so by Thamburan.

On 19-5-52 he took some coolies and erected another shed close to the shed occupied by the deceased and attended to cultivation. His mother, Ulahannan, (Onnan) Thommi and coolies were working and after that coolies and himself left the place leaving the other inmates. He came to Kanhangad to get money and halted in the house of M. Keshava Kamath S.K.C.C. Stores, Hosdrug. He came in a lorry driven by George Soans. Keshava ~~Kamath~~ Kamath and Raja Puram Co-operative Stores Salesman Kuruvilla was also there.

On 20-5-52 morning he got information that his house, newly built has been

set fire to. He immediately went to the Patail of Panathady. Himself and Patail came to the scene. There he came to know about the stabbing incident. He denied of having present at the spot on the night or on the morning of 20-5-52 and stabbed the deceased. He further stated that he came to know that his brother, A.2. stabbed the deceased to death. When asked about the records, he said that they are all with Mani, his co-brother and he would produce the same soon.

P.W.20. Kuruvilla Thekkanat S/o Ouseph, Salesman in Rajapuram. Co-operative Stores, Echikol in Panathady. He stated that he belongs to Kidanggor Village in Meenanchal Taluk in Central Travancore. He came to Panathady about 2 years back. He has been working as a salesman in Rajapuram Co-operative Stores since about 3 months. He knows Kuriyakose A.1. eversince he came down to Panathady. On Monday he had been to Kanhangad in Ambu's Taxi (MDX523) in the afternoon. He walked up to Chullikera and gone into the Taxi. He went to Kanhangad to give the accounts to the F.S.C. about 4 P.M. he reaching Hosdrug gave the accounts to the F.S.C. He waited there thinking that he would get the released rice to the stores but in the evening he has been informed that the rice would be given ~~(to the stores given)~~ on the next day. He had about Rs. 700/-. He knew Keshava Kamath ever since he became a salesman in Rajapuram. He went to the house of Keshava Kamath by about 10 P.M. and handed over the amount to him for safe custody and slept. After an hour later A.1. came there. Keshava Kamath asked A.1. as to what brought him there in that night. A.1.said that he would tell afterwards and slept there on the ground. He got up at about 7 A.M. when he found A.1. still sleeping. He could not say whether A.1. had gone out in the night after he went to bed or not. He had his coffee in the house of Keshava Kamath along with A.1. Thence he along with Al came up to the bus stand and from there he proceeded in advance towards Kotachery side. While going he heard a lorry stopping just at the bus stop and he saw Mani of Echikol getting down from the lorry. He then proceeded to Mangalore to make some purchases. He came to know of the occurrence only on his return from Mangalore.

During the course of investigation I conducted the search of the houses of A.1 as well as of the deceased but nothing incriminating could be found.

Closed the investigation for the day. Further investigation will continue.

Sd.

Sub Inspector of Police,
Hosdrug. 22-5-52.

Countersigned. The S.I. has held the investigaion under my supervision and at my direction. The statements have been recorded correctly.

Sd.

Inspector of Police,
Kasaragod. 22-5-52.

Can draw

Hosdrug Pln FIR No. 46/52.

234

23-5-52.

09.00 Hrs. to 22.00 Hrs.

I. 20-5-52 - 17.00 Hrs.

II. Talayari Ambu, Panathady.

III. 1. Kuriyakose.
2. Ulahannan,
3. Thommi.

IV. & V Nil.

VI. 22.5.52 - P.12.

VII. Witnesses Exad.

21. Kallar Anduka S/o Mammad of Kallar in Panathady.
22. George Soans, Driver of Lorry MDX 1823 of C.P. Erumulla of Nileshwar.
23. H. Keshava Kamath S/o Laxmana Kamatha Manager of S.K.C.C. Stores Hosdrug.
24. B. Ananda S/o Chikkamma, Driver of C.K.N. Kanhangad Badge No.240.
25. Driver Laxmana Nayak S/o Krishna Nayak, Badge No. 846 of Banu Motor Service Kanhangad.
26. Ch. Baskara S/o Manjayya, Conductor Badge No.1127 of Banu Service.
27. Dr. Sri M. Keshava Kamath, Hony. Medical Officer L.F. Dispensary, Hosdrug.

Continued investigation in this case. Questioned Kallar Anduka S/o Mammad of Kallar in Panathady as witness. 21. He stated that Chennakad was got from Nileshwar Raja on Marupattam about 18 years ago by his father when his father was alive. They brought of living there. They dug a well but his father fell ill about 3 years ago. Kuriyakose began to cultivate the land about 6 years since, after getting permission from them. Kuriyakose paid Varam to Raja. He had given the land in question to Kuriyakose about a year ago on an agreement arrived at by them. He got Rs. 200/- from Kuriyakose out of Rs. 600/- in advance and the remaining Rs. 400/- was also got before registration of the sub lease of the Maruvattam Theer about a month ago. It was got registered about a month ago. He further stated that east of Chennakad belongs to Driver Ananda and south of the same belongs to Issumma female his mother and west belongs to Thambunan and north being L.F. Road. He stated that the scene of offence in question is in possession Kuriyakose A.1.

P.W.22. is George Soans, Ex-P.C. Driver of Lorry MDX 1823 of C.P. Erumulla was questioned. He stated that on 19-5-52 night about 8 P.M. when he was coming from Kollichal side A.1. stopped the Lorry at the 14th mile stone. A.1. came in his lorry up to Keshava Kamath's house and got down in front of Keshava Kamaths house. A.1. after getting down from the lorry went towards the house of Keshava Kamath. It was at about 11 P.M. in

the night. He does not know anything further. He came to know of the occurence only on the next day. He could not say whether A.1. had returned to Panathady again in the night and returned.

P.W. 23. H. Keshava Kamath S/o Lakmana Kamath, Manager, S.K.C.C. Stores, Hosdrug. He when questioned stated that he came to know Kuriyakose eversid since he became the salesman of Rajapuram Co-operative Stores. He did not see A.1. Kuriyakose on 19-5-52 either on the day time or in the night. A.1. did not come to his house on 19-5-52 night and sleep in his house nor did he gave coffee to A.1. on the morning of 20-5-52. On the other hand A.1. had sent a letter dated 19-5-52 in Malayalam saying that he was not in a position to come for two days and meet him. This witness produced a letter alleged to have been sent by A.1. to him which he received it on 20-5-52 morning at about 10 A.M. through Driver Ananda of C.K.N.S. I seized the same in presence of Panchayatdars. The letter when got translated reads as follows:

"Always Dear Keshava Swami. We some people are going to work for planting tapioca sticks and build a house to live in. The others are still in their hut (V.I.) Kelu Nair has gone to Kanhangad. Might be for filing some petitions or so. Please enquire and know of all things. Further Kunhikannan Nambiar and Kumaran Nair, Vakil Sir may also be informed of it. Send somehow 10 moplas by today evening by telling to Sophi or so. It is very much necessity. further as told you yesterday Rs. 50/- and rice may also be sent. I possible either come this side tomorrow morning or send someday to know all particulars. Please that if it is at the time of danger one man should help another. you may know that right for night. I am in the pit. I cannot come over to that side today or tomorrow. Nothing is known after Kelu Nair returned. Therefore I request, please help me in all possible ways in this respect. Rest in person if possible. Yours P.T. Kuriyakose."

Then I got at Driver Ananda S/o Chikkanna, Driver of C.K.N.S. Bus of Kotachery, badge No. being 240. He is questioned as witness 24. He state that he has a plot belonging to Nileshwar Raja just on the east of the disputed plot. Towards the east of his plot is the plot belonging to Kallar Mohammad. To the south of his plot is the plot of Issumma. A.1. was not in possession of the disputed plot at any time. Wit. 21. has told him that the eastern plot belongs to him and there was also some dispute between him and that Anduka with respect to the line of demarcation of the respective

plots. Wit.21 had also warned him that he should not extend his eastern boundary and encroach on his land on the east. He had planted about 1000 props for pepper vines. He had engaged wit.9 to work in the said plot. He knows that P.W.9 is putting up along with Wit.6. ~~xxxxxxxxxxxxxxxxxx~~ He knows A.1. as well as P.W. 23 veryw well. On 20-5-52 at about 9.30 A.M. he was at Kotachery Bus Stand. When Banu Bus from Panathady side came to Kotachery Bus Stand, Driver Laxmana Nayak on the bus handed over to him a letter to be handed over to P.W.23. Accordingly he handed over the said letter in Malayalam to P.W.23 at about 10 A.M. at S.K.C.C. Stores. He has not read the letter. He does not know Malayalam.

P.W.25 is Laxmana Nayak S/o ~~Kxxxxxx~~ Krishna Nayak, Driver Badge No. 846 of Banu Service, Kotachery, in Hosdrug. He was questioned. He stated that he knows Kuriyakose, A.1. ever since he ~~xxx~~ came to the line. He has been the driver of Banu Service for the last 4 months doing service from Hosdrug to Panathady. On 19-5-52 while he was coming from Panathady side A.1. stopped the bus at Malekkal and handed over one Malayalam letter and asked him to hand over the letter to Keshava Kamath and thus the letter remained with him. He came to Hosdrug but he forgot to hand over the letter to Keshavakamath His bus went out of order on that day. The bus which was scheduled to start from Kotachery to Panathady at 5 P.M. could start only at about 2 A.M. on 20-5-52 (In the night of 19-5-52). He reached Panathady only at about 04-30 Hrs. He would have reached Malekkal at about 04.15 Hrs. and he did not hear anything about the stabbing and the situation was appeared to be quiet. He had seen some light at the site of the scene of offence. He could not say whether the light was of burning House or a lantern. He started from Panathady at about 07.00 Hrs on 20-5-52 to make Panathady-Kottachery trip. He when reached Malekkal at about 07.10 Hrs. he saw the deceased lying with injuries, his father with injuries and sister too with several injuries lying at Chennakad in Malekkal. He had also seen A.2. A.3. and their mother lying with injuries on a mat under neath a tree just near the burnt house. He treated them all with water. It appeared as though the offence took place just about an hour back as they were still bleeding. He then came to Kotachery and remembered about the letter given to him by A.1. Driver Ananda was seen at the Bus Stand at Kotachery. He handed over the letter and requested him to hand over the same to S.K.C.C. Stores.

C.K.

P.W.26. is Ch.Baskara S/o Manjayya, conductor on badge No.1127 of C.K.K. N.S. and Banu Service. He when questioned stated that on 19-5-52 he was the conductor of Banu Service under wit.25. The bus which was scheduled to start-start at 5 P.M. on that day due to mechanical defects could start only at about 02.00 Hrs. on the night of 19-5-52 (In the early morning of 20-5-52) He did not notice anything at Malekkal while proceeding to Panathady. The bus reached Panathady only atabout 04.30 Hrs. While returning they would have reached Malekkal at about 07-10 Hrs. He noticed the deceased lying to the north of the house at Chennakad with bleading injuries. A.2. A.3. and Yeli, mother of A.2. too were lying just close to the burnt houses with some injuries. He could not bear the sight as he was not used to the blood being shed profusely. He went away from the scene after seeing the injured from a distance only. It appeared from the fresh blood being bled that the stabbibg should have taked place little earlier to their reaching the spot.

P.W.27 is Dr. Sri M. Keshava Pai, Hony. Medical Officer, L.F. Hospital Hosdrug. He when questioned with regard to the injuries found on the injured persons stated that as regards injuries found on injured Ambu Nair s person, all the injries are due to only sharp instrument or weapon. Bellachi has multiple injuries on her person and they are all due to sharp instrument. No injuries were found on the body of Yeli, mother of A.1. Injuries found on the fingers and hand of A.2. are only due to sharp instrument and not due to any blunt weapon. There were no marks of rope round the wrist seen. It is possible that injuries found on A.2. could be self inflicted so far as they happened to be situated in easily accessible parts. But injury No.2 cuts right down through the bone and also there is no evidence of any hasitation (such as small minor injuries by the side) at the site of any of the injuries. As regards the injuries found on the person of A.3. the injuries No. 1 and 2 are due to sharp instrument in easily accessible situation. It looked as though very superficial and probably self inflicted. As regard the contusion on the right temple greater chances are for self infliction or otherwise one would normally expect it to be on the left temple. It could be only by blunt weapon most probably due to fist blow. Injuries found on Bellachi and Ambu Nair cannot be self inflicted. There were no rope marks on the hands of A.3.even.

Wound Certificates received in respect of injured in this case are embodied herebelow :

"Wounds or injiried found on the person of a female calling herself Belliachi D/o Ambu Nair, Cheyari, Aged about 35 years an in habitant of Malekkal Panathady who was sent with a requisition from S.I. Hosdrug and accompanied by P.C. 710 for report as to certain injuries on her person said to have been caused on 20-5-52 at dawn and to be due to violence with a knife at Malekkal Panathady Village. Identification and caste marks: Raised mole at right shoulder just outside outser end of collar bone. The injured person was first seen by the undersigned at 8 P.M. on the 20-5-52 at Bus near Kilengan and the examination was commenced at 11.45 P.M. on the 20-5-52 at the hospital Hosdrug wnen the following injuries were found.

1. Incised wound 1½" long ¼" broad ½" deep at the outer aspect of middle of left upper arm. 2. Incised wound 2" long ½" broad ½" deep on the palmar aspect of left hand placed horizantaly at the lower end of Hypothenar humar end. 3. Incised wound at the back of left wrist horizantal at the lower end of radies 1" x ¼" x ¼" deep. Incised wound between ring and little finger ½"long ¼" deep. 5. Incised wound 1" long ½" broad ½" deep at the back right shoulder horizantaly. 6. Oblique incised wound 1¼" long ½" broad ½" deep on the back 2" below lower angle of scapula on the left running from above downwards and without inwards. 7. Incised wound 3" long ½" broad ¼" deep on the top of the head running before backwards in the mid line. 8. Incised wound 1¼" long ¼" broad ¼" deep 1" to the left of the injury No. 7. No.9 Incised wound 1¼" long on the forehead 2" above the right eyebrow. ¼" x ¼" deep. 10. Incised wound at the side of the head 5" above the right ear 1¼" long ¼" broad ½" deep transverse.

I am of opinion that the ~~opinion~~ injuries are simple."

2. Wounds or injuries found on the person of a male calling himself Chevari Ambu Nair S/o Raman Nair aged 60 years an inhabitant of Malekkallu Panathady who was sent with requisition from S.I. Hosdrug and accompanied by P.C. 710 for report as to certain injuries on his person said to have been caused on 20-5-52 at dawn and to be due to violence with knife at Chennakady, Malekkal Panathady Gram. Identification and caste marks:- Thumb impression of left thumb. The injured person was first seen by the undersigned at 8 P.M. on the 20-5-52 at Attengal in Bus and the examination was commenced at 1.15 A.M. on the 21-5-52 when the following injuries were found.

1. Incised wound 1" long ¼" wide 1" deep vertical on the back at the medial border of right scapula at the level of the spine of scapula. 2. Incised wound 3" long ½" broad ¼" deep placed transverse on the back of the middle of left upper arm. 3. Horizontal stab injury 1" long ¼" broad reaching the chest cavity allowing entry and exit of air in Posterior axilly line 4" below inferior angle of scapula left side. 4. Incised wound ¾" x ¼" x ¼" ---- of right thumb on index finger side.

I am of opinion that. Nature grievous No.3. - other injuries simple.

3. Wounds or injuries found on the person of a male calling himself Ulahannan P.T. S/o Thamman aged 27 years an inhabitant of Adakkavu Panathady who was sent with a requisition from S.I. Hosdrug and accompanied by P.C.710 for report as to certain injuries on his person said to have been caused on 20-5-52 and to be due to violence with a knife and bill hook at about 8 A.M. at Chennakad Panathady Village. Identification and caste marks:- Birth marks 2" behind and sup Iliac spine left side. The injured person was first seen by the undersigned at 8 P.M. on the 20-5-52 and the examination was commenced at 12.15 A.M. on the 21-5-52 when the following injuries were found.

"1. Incised wound 1" long ⅛" x ¼" deep on dorsal aspect and ulnar borde of left wrist at thelower end of ulna. 2. Oblique incised wound 1" long ¼" broad ¼" deep cutting the 2nd phalangx of index finger of left hand on the thumb side. 3. Incised wound ½" long 1/8" deep at the base of the first phalynx of the thinb towards index finger side. 4. Abrasion measuring 7" long oblique above downwards from le t to right across the breast bone.

Nature - grievous No.II, Other injuries simple".

4. Wounds or injuries found on the person of a male calling himself P.T. Thomas S/o Thamman aged 24 years an inhabitant of Malekkalu Panathady Village who was sent with the requisition from S.I. Hosdrug and accompanied by P.C. 710 for report as to certain injuries on his person said to have been caused on 20-5-52 at about 8 A.M. and to be due to violence with a stick on the head and knife on the lower limbs. Identification caste marks:- 1. Mole just in front of middle of the lobe of left ear. 2. Mole chest level of 2nd rib. 22. of the right of border of breast bone. The injured person was first seen by the under signed at 8.P.M. on the 20-5-52 and examination was commenced at 12.30 A.M. on the 21-5-52, when the following injuries were found.

1. Oblique incised wound 2" long ½" broad 1/8" deep, medial aspect of Rt. thigh 4" above knee without inwardly. 2. Incised wound ¾" long just above the knee cap of left leg 1/8" broad and 1/8" deep. 3. Contusion ¾" x 1" nearly oval at the rt. scapula. 4. Contusion ¾" x 1" x 1" nearly oval on the medial aspect of lower end of left ulna.

Nature - Injuries are simple."

5. Wounds or injuries found on the person of a female calling herself Yeli W/o Thomman aged 56 years an inhabitant of Malekkally Panathady who was sent with requisition from S.I. Hosdrug and accompanied by P.C. 710 for report as to certain injuries on her person said to have been caused on 20-5-52 about 5 hrs after sun rise and to be due to violence with a stick at Chennakad. Identification and caste marks: Thumb impression of left hand taken. The injured person was first seen by the undersigned at 8 P.M. on the 20-5-52 and the examination was commenced at 12.45 A.M. on the 21-5-52 when the following injuries were found.

1. Complains of pain above left wrist. No obvious contusion or injuries were found. 2. Complains of pain left side of the back all over. No obvious injury seen.

Nature of injury - No injuries."

The doubt created by A.1. that he was at Kanhangad on the night of 19-5-52 and he was not at all present during the time of occurence has been disproved from the evidence of witness. 23 and mucha more from the letter sent by A.1. to wit 23 which clearly shews that it would not be possible for him to come for two days to Kanhangad and meet witness. 23. Under the circumstances it is seen that A.1. to A.3. were the real agressors and did commit the offence of murder of the deceased. Hence I arrested A.3. Thommi at about 19.30 Hrs at the L.F. Dispensary Hosdrug and A.1. at 19.45 Hrs near the hospital premisses and brought them to station, searched, given food and confined in the lock up at about 21.15 Hrs. The accd. did not complain of any ill-treatment at the hands of the police. I then arrested A.2. at 21.30 Hrs. at Hospital and posted guard of P.Cs 117, 50, 843 and 710.

I seized the blood stained clothes of the deceased and the other injured at the hospital under a yadast and they will be forwarded for Chemical Examiner for test along with the knife seized from A.2.

Closed the investigation for the day at about 22.00 Hrs. further

investigation will continue.

Sd. J.A. Ram 23/5
Sub Inspector of Police,
Hosdrug,

Countersigned

Sd. 23/5
Inspector of Police,
Kasaragod.

24.5.52.

I. 20-5-52 - 17.00 Hrs.

II. Talayari Ambu.

III. Kuriyakose.

2. Ulahannan.

3. Thommi.

IV & V Nil.

VI. 23-5-52 - P-16.

This day the Civil Assistant Surgeon of the Govt. Hospital, Kasaragod sent the duplicate Post-Mortem Certificate No.6/52 dated 22-5-52 regarding the body of a male aged about 25 years named Kunhiraman Nair. Requisition received at 12.40 P.M. on 21-5-52 from the S.I. of Police, Hosdrug ~~Hosdrug~~ with his letter No. -- dated 21-5-52. Body in charge of Police Constable No. 555 named-

Identification and caste marks:- 1. Scar ¾" diam on inner aspect of rt.thigh about a middle.

The body was first seen by the undersigned at 12.50 P.M. on 21-5-52.

Its condition then was decomposition set in.

Post Mortem commenced at 12-50 P.M. on 21-5-52.

Appearances found at the Post mortem: External. body of a well nourished man about 25 years, dark complexion, feature bloated and rather livid, eyes congested and ~~protruding~~ tongue slightly protruded between teeth, discharge from eye balls/ blood through nose. Injuries: 1. Incised wound on rt. side of back 1½" x ½" penetrating the Rt. plural cavity in 6th space starting 1½" to Rt. of midline at level of 6th vertebral and going up and outward. 2. Incised wound on outer side of Rt. thigh at level of knee vertically 2½" x ¾" x 5" deep. 3. Incised wound ¾" x ¼" bone deep on palmar and outer aspect of mid piece of Rt. Index finger.

Internal:- Heart:- Wt. 7 oz. All chambers empty, blood dark colour.

Lungs:- Rt. 7 oz. much congested. It has a wound on upper vertebral part of lower lobe 1" x ½" x ½" and another of same dimensions ½" above it. Blood present in acivi about 3" around the injuries. Lt. 7 oz. no injuries or congested.

Stomach:- is normal size. Empty of food matter, and about 1 oz. of dark blood present.

242

Liver:- 32 ozs. normal looking.

Spleen:- 7 oz. Rather longer than normal.

Kidneys:- Each 3 ozs. nil spl.

Intestines:- Nil spl.

Bladder:- Empty.

Brain:- 40 ozs.

pinion as to cause of death:-

(b) The deceased would appear to have died of shock, haemorrahage and probably simultaneous promoting due to No. 1. injury described.

Sd. J.A. Ram

Sub Inspector of Police,
Hosdrug. 24-5-52.

26-5-52.

12.00 Hrs. to 20.00Hrs.

I. 20-5-52 - 17.00 Hrs.

II. Talayari Ambu.

III. Kuriyakose.
Ulahannan.
Thommi

IV and V Nil.

VI. 24-5-52 - P.17.

VII. Witnesses Exmd.

W.28 Kannan Marar
S/o Ambu Marar

W.29 Krishnan Nair
S/o Nittur Kammaran
Nair.

This day I further questioned witness 19. Kalu Nair S/o Sankaran Nair, Karyastha of Nileshwar Raja as regards the claims of the accused and about the records pertaining to the claims. He stated that the accused A. was asking him for the diputed land since last 6 months but he has been repeatedly telling him that since it has been let out to somebody else it could not be given. A.1. was also going to the Raja directly and carrying tales against him with a view to get at the land. The Raja also did not give his consent at any time. A.1. has not done any cultivation so far in the disputed land. A.1. was planting tapiocca 2 years ago on the N.E. side of the Kallar T.B. and he has also had ponam cultication at the same place. Raja, the District ~~Board~~ Board Member had told him about the ~~and he has inspected the entire land in dispute as well as the surrounding lands and a letter~~ letter received from M.K. Namiar* E... at that time it has been brought to the notice of A.1. that this disputed land was not covered by his document. A.1. has no manner of right to enter into the land. There are some improvements in the plot covered by the lease in favour of deceased Mohammad. Neither deceased Mohammad nor his successors have exercised any right of possession over the disputed ~~pkxxtx~~ plot. All along the present Raja as well as ~~his~~ his predecessor have been reluctant to lease out land on the road side. The present Raja on principal do not give lands to Travancore people since they are known to create good lot of trouble in the area and when some of them encroached some plot in the last year the Raja also has taken a letter from them undertaking that they would not encroach hereafter. This is a deliberate attempt by A.1. and his set to grab at the land lying on the road side. He also speaks about the adjoining lands and their possession thereof.

* and he has inspected the entire land in dispute as well as the surrounding lands and a letter ~~has~~ has been sent by Raja to M.K. Nambiyar

This witness then produced before me the following records.

1. Receipt Book Vol.No.VI - Receipt No. 51 granted to the deceased on the collection of Rs. 2-8-0 on 23-4-52 on the disputed land.
2. Receipt Book Vol. X - Receipt No.75 granted to the deceased on the disputed land dated 16-9-1951 for Rs. 2-8-0.
3. Lease deed executed by Kallar Mohammad in favour of Nileshwar Raja in the year 1934 of the Chennakad land.
4. Lease deed book in which it shows A.1. has been given on lease the North eastern land of the Kallar T.B. for ponam cultivation.
5. Nigadi Pata Jama Books. 2.

From the records it is seen that A.1. had been leased only the north eastern plot of Kallar T.B. for Kumari cultivation.

Witness. 28. is Kannan Marar S/o Ambu Marar, Karayastha of Nileshwar He when questioned stated that he has been the Karyastha of Nileshwar Raja for the last 15 years. He is only to manage the court affairs. Disputed plot was not in the possession of A.1. and it was given to the deceased by the Raja. Though A.1. was asking for the land neither the Raja nor the Karyasthan consented to release the land. The land in which A.1. was cultivating tapiocca was on the north eastern side of Kallar T.B. This land was never cultivated by A.1. He also speaks to the adjoining land and the particulars relating to possession. When questioned about ~~xxxx~~ some improvements and the construction of the well in the disputed plot he stated that he has heard that some improvements and the well in the disputed land were made by Perundath Koran Nair who has been in possession of the plot directly opposite to the disputed ~~xxix~~ plot on the north. The well was dug about 20 years back with a view to occupy the land by Koran Nair. He heard the same from Krishnan Nair of Pullur Village.

I then got at Krishnan Nair N/o Nittur Kammara Nair, Panathady and questioned him as witness 29. He stated that he is permanently residing in Kodavalth in Pullur Village and he has got lands at Malekkal at ~~xxxx~~ Panathady for the last 25 years belonging to Raja and he occassionally living with his brother-in-law (his sister's husband) Perundath Koran Nair who has been in possession of the plot directly opposite to the disputed plot on the north. The well in the disputed plot was dug by his brother-in- law Koran Nair about 20 years back with a view to occupy the land being

adjoining to his plot but since the then Raja did not consent to his occupation on the land and water was also difficult to get. Nobody occupied that land until the deceased occupied the land about 2 years back with the permission of the Raja.

I then made enquiries about Mani, co-brother of A.1. and Thomas who said to have conveyed information of setting fire to the house of A.1. to A.1. who was alleged to be* with Mani but both of them were not available for questioning.

Made enquiries about the remaing persons mentioned in the complaint of A.2. and they were also not available for questioning. It is learnt that they have made themselves scarce from the village hearing that the police have ~~xxxx~~ come to the village.

Closed the investigation for the day. Further investigation will be held.

Sd.

Sub Inspector of Police,
Hosdrug. 25-5-52.

* the at Kanhangad and also to take possession of the crops of I which were alleged to be

27-5-1952.

I. 20.5.52 - 17.00 Hrs.

II. Talayari Ambu.

III. Kuriyakose.
Ulahannan.
Thommi.

IV and V Nil.

VI. 26-5-52- .19

VII. Witness Examd.

30. H. Madhava Bhat.
S/o Narayana Bhat,
Shanbhogue of
Panathady.

This day I got at H. Madhava Bhat S/o Narayana Bhat, Shanbogue of Panathady Village and questioned him as witness 30. He stated that he knows the disputed plot very well. He is conversant with the documents of Mohammad, Issumma, Kolichal Moidine and others who have got the adjoining plots of the disputed plot. As per instructions of the C.I. of Police, Kasaragod he has inspected the disputed plot as well as the adjoining lands and has perpared two plans in respect of the same. The eastern side of the disputed plot is Driver ~~Anabdan's~~ Ananda's. On the eastern side of the plot of Driver Ananda there is the I item of 6 acres of land of Mohammad, to the south of the I item of 6 acres of land of Mohammad there is 8 acres of land of Issumma. To the south of Issumma's 8 acres of land 2nd item of 6 acres of land of Mohammad comes in. The I item of Mohammad's plot touches the the road on the northern end. Directly to the opposite to the disputed plot on the northern side of the road there is the plot of Perundartha P.Koran Nair now in the possession of Madhavan Nair. Plot Kolichal Moidin falls to the west of the disputed plot. There is an extensive forest ascending to a height, gradiant of about 3 furlongs on the southern side of the disputed plot and there are no traces of pepper vines or any other improvements. The disputed plot is about 5½ acres. There are pepper vines in the plots identified as included in the document in favour of Mohammd. There are absolutely no traces of any portion of the forest area to the south of the disputed plot having been cultivated or made use of by anybody till now. To the south western side of the plot in question there is a plot of Subramania Iyer.

This witness produced two plans of the disputed plot with all the details found at the scene of offence.

Records pertaining to the accused's claims were not available for perusal.

Further investigation will continue.

Sd.
Sub Inspector of Police,
Hosdrug. 27-5-52.

2-6-52.

16.00 Hrs. to 17.00 Hrs.

I. 20-5-52-17.00 Hrs.

II. Kalayari. Ambu.

III. Kuriyakose.
Ulahannan.
Thommi.

IV and V Nil.

VI. 27-5-52- P.21.

VII. Witnesses Examd.

31. Sri Ravivarma Raja
N/o Ramavarma Raja
Dist. Board Member
Nileshwar.

32. Narashima Nambudari
S/o Sambu Nambudari,
Nileshwar.

This day I visited Nileshwar and questioned Ravivarma Raja N/o Ramavarma Raja, o Nileshwar as witness. 31. He stated that the Raja has got about 8000 acres o land at Panathady. The Panathady property is being managed by witness. 19. Kelu Nair, their Karyastha of Panathady. Kely Nair is working Karvastha for the last 8 years. He knows that Chennakad land of about 5 to 5½ acres of plot has been assigned to the deceased about 2 years back on Maruvattam deed. He does not know whether A.1. has been given any land near Chennakad. If A.1. has been assigned any land it would be with Kelu Nair, their Karyastha at Panathady On 25-4-52 A.1. came to Nileshwar and presented a letter from M.K. Nambiar of Kanhangad and requested to lease out Chennakad land, the disputed ~~xxxd.~~ land. He told him that he would send a reply to M.K. Nambiar in connection with the letter and said that he would look into the matter. He inspected the plot and the adjoining lands and sent a letter to M.K. Nmabiar saying that the disputed plot is not in the possession of A.1. and that it is not included in accused's document or Kallar Mahammad's document. Witness then produced the letter dated 25-4-52 sent by M.K.Nambiar The letter reads as follows:-

"My Dear Sri Raja, - On hearing the ~~bearer~~ bearer and on perusal of the documents he possess, I believe some glaring injustice is being done to him by your Karyasthan Kelu Nair. Only in the interests of justice I am taking the priveldge of writing to you on his behalf and I am sure that on your being conviced in the matter you will take necessary step to prevent ~~it~~ the same. I understand if some immediate steps are not taken in the matter there is even a likely hood of breach of peace taking place. I request you hear the bearer and do the needful in the ~~xx~~ matter immdeiately.

Trust this finds you in the best of health - Thanking you

Yours sincerely,
Sd. M.K. Nambiar".

P.S.- Kindly send a reply through the bearer. - Sd. M.K.N.

250

The letter produced has been seized for the purpose of further investigation.

Narasimha Nambudari S/o Sambu Nambudari, Nileshwar who was in the house of Nileshwar Raja said that he too was present when A.1. came to the house of Raja. He is questioned as witness 32. He stated that he is a petty land lord of Nileshwar. He is the friend of witness 31. He often visits the house of witness. 31. On 25-4-52 he was in the house of wit. 31. When A.1. came with a letter of M.K. Nambiar of Kannangad and requested the Raja to lease out some land in Chennakad. P.W. 31 told Him that many of the lands in the area were given out to other tenants and would give out the lands a ter inspection of the lands.

M.K.Nambiar was not available for questioning. He will be questioned.

Sd.

Sub Inspector of Police,
Hosdrug. 2-6-52.

6-6-1952.

I. 20.5.52 - 17.00 Hrs.

II. Talayari Ambu.

III. Kuriyakose.
Ulahannan.
Thommi.

IV and V Nil.

VI. 2-6-1952- R '22.

VII. Witnesses Examd.

33. M.K.Nambiar N/o M.C. Nambiar, Kanhanagad.

34. Subramania Iyer, Landlord, Pullur.

This day I questioned M.K. Nambiar N/o M.C. Nambiar of Kanhangad with reference to the letter as witness 33. He stated on seeing the letter that it was the latter written by him to Nileshwar Raja, Dist. Board, Member. On 25-4-52 A.l. came to him and requested to give a letter to the Raja to help in getting him a plot at Chennakad. He on perusing A.l.s records wrote a letter to Raja and handed it over to A.l. and also asked him to get a reply. A.l. turned up from Nileshwar and said that the Raja had told him that he would wend a reply direct to him. After somedays Raja wrote a reply saying that the disputed land is not in possession A.l. and it has already been given to the deceased. The reply he received was given to A.l.

Wit. 34 Subramania Iyer, Landlord, Pullur. He when questioned whether he has got any land at Panathady. He stated that he has got some lands at Malekkal on the South western side of the disputed land.

Investigation in this case is almost complete. Further investigation if any will be held after consulting A.P.P.II Kasaragod and the Inspector of Police, Kasaragod.

Sd.

Sub Inspector of Police,
Hosdrug. 6-6-52 .

6-6-52.

I. 20-5-52.

II. Talayari Ambu.

III. Kuriyakose.
Ulhannan
Thommi.

IV and V Nil

VI. 6-6-52

This day I further questioned P.W.21 Kallar Anduka who was questioned on 23-5-52 On inspection of the property by the Shanbogue it is clear that the disputed plot is not included in the assignment executed by this witness in favour of A.1. It is also evident that he has no idea of the property comprised in the Kunhikannan in favour of his father. Since his statements made on 23-5-52. are contradicting to facts, and the plan prepared by the shanbogue it is obvious that the witness is hiding A.1. and was given a false version about the identity, of the plots ~~xxxxxxxxx~~ Hence he ~~is~~ is further questioned with reference ~~with~~ to the plots comprised in his document, on the basis of the shanbogue's verification of the plots.

The witness Kallar Anduka now evades the issue and says that he cannot say anything with respect to the Shanbogue's identification and that before the assignment he did not get the properties identified. He also says that so far as his knowledge goes, he was under the impression that the disputed plot was included in his document. A.1. also did not ask him to get the plots identified by the Shanbogue prior to the assignment.

Kathr Ambu Nair P.W.1 when further questioned, stated that he had sent the deceased to give information to Kelu Nair (~~Kxxxxxxxx~~) ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ (Karyastha) about the trespass by the accused and the construction of a Pendal in his property at about Noon on the date of occurrence. The deceased returned saying that Kelu Nair has promised to take steps against the accused by giving information to the authorities concerned.

Kelu Nair P.W.19 produced the following documents.

1. Lease deed for the Kumari cultivation for the year 11 25
2. ~~Xxxxx Xxxxxxxxxxx~~-Receipt Book No. VI - Receipt No.5 granted to accused No.1
3. Lease ~~deed~~ deed dated 4-5-1928 executed by Hassanar.

4. -do- d/ 4-5-1928 executed by Ab

5. -do- dated 9-9-1935 -do- Hussan

6. -do- executed by Permadatha Koran

7. -do- -do- by Kohithall Moidin

the plot on the eastern side of the dispu

8. Receipt Book No. 11 of 1927 Receipt No. 7

P.W.19 when further questioned stated th given information about the tresspass by the accu date of occurrence and he told him that he would matter by complaining to the authorities concerne

The case has been charged today citing t consultation with A.P.P.II Kasaragod.

1. K. Ambu Nair.

2 Bellachi

3. Ambu Nair son of No. 1.

4. Kunhiraman Nambiar.

5. Ambu Talayari

6. Raman Nair. Nambiar.

7. Parvathi.

8. Kelu Nair.

9. Kannan Marar.

10. Subraya ~~Iyer~~. Nayaka Iyer

11. Sri Ravi Varma Raja

12. Sri M.K. Nambiar.

13. Sri M. Madhava Bhat.

14. Krishnan Nair.

15. Keshava Kamath.

16. Dr. Ahanda.

17. Sri Dr. M. Keshava Pai.

18. Sri E.T.Unni.

19. P.C. 555.

20. Sri K. Kunhi Ahmad. S.M.

21. J. Anantha Rama.

22. P.M. Mohammad.

Sd/.

Inspector

4. -do- d/ 4-5-1928 executed by Abdul Rahiman.

5. -do- dated 9-9-1935 -do- Hussanara.

6. -do- executed by Permadatha Koran dated 7-3-1938.

7. -do- -do- by Kohithall Moidin dated 15-4-1949 for the plot on the eastenn side of the disputed plot.

8. Receipt Book No. 11 of 1927 Receipt No. 77 granted to A.1.

P.W.19 when further questioned stated that the deceased had given information about the tresspass by the accused at about noon on the date of occurrence and he told him that he would do the needful in the matter by complaining to the authorities concerned.

The case has been charged today citing the following P.Ws in consulaation with A.P.P. II Kasaragod.

1. K. Ambu Nair.
2. Bellachi
3. Ambu Nair son of No. 1.
4. Kunhiraman Nambiar.
5. Ambu Talayari
6. Raman Nair. Nambiar Nambiar.
7. Parvathi.
8. Kelu Nair.
9. Kannan Marar.
10. Subraya Mania Iyer.
11. Sri Ravi Varma Raja
12. Sri M.K. Nambiar.
13. Sri M. Madhava Bhat.
14. Krishnana Nair.
15. Keshava Kamath.
16. Dr. Anand Ahanda.
17. Sri Dr. M. Keshava Pai.
18. Sri E.T.Unni.
19. P.C. 555.
20. Sri K. Kunhi Ahmad. S.M.
21. J. Anantha Rama.
22. P.M. Mohammad.

Sd/.

Inspector of Police, C.

IN THE COURT OF THE SESSIONS JUDGE, SOUTH KANARA, MANGALORE.

R.C.

Complainant: State.

Accused: 1. P.T. Kuriyakose S/o Thomman Malekkal in Panathady Village

2. P.T. Ulahanan, brother of No. 1.

3. P.T. Thommi @ Thomas, brother of No. 1 of Malekkal in Panathady.

Charge under Section 302; 326, 324, 447 and 436 I.P.C. read with Section 34 I.P.C.

Charge against the accused No. 1 noted above is that he on 20-5-52 at about 5 A.M. or about that time at Chennakad in Malekkal in Panathady Village committed murder of Kunhiraman Nair by stabbing with a knife and thereby committed an offence punishable under Secyion 302 I.P.C. and A.2. and A.3. noted above along with No. 1. having committed murder in furtherance of the common intention of all, A.2. and A.3. are also liable for an offence punishable under section 302 I.P.C. read with Section 34 of the I.P.C.

Charge against A.2. is that he on 20-5-52 early morning at about 5 A.M. or about that time at the same place mentioned above voluntarily caused grievous hirt by means of a knife and thereby committed an offence punishabl under Section 326 I.P.C.

Charge against A.3. noted above is that he at the same time and place mentioned above voluntarily caused simple hurts by means of a knife to wit. 2, Bellachi female and thereby committed an offence punishable under Sectio 324 I.P.C.

urther Charge against A.1. to A.3. is that they on 19-5-52 at about 10.00 Hrs. at Chennakad in Panathady Village with the intention of intimidating and annoying Kunhiraman Nair who was lawfully in possession of the plot entered into the land with out any right or consent and thereby committed an ence punishable under section 447 I.P.C

Further charge against A.1. to A.3. is that they on 20-5-52 at about 4 A.M. or about that time at Chennakad in Panathady Village in furtherance of a common intention of destroying the house committed mischief by fire by setting fire to the house of Kunhiraman Nair of Chennakad in Panathady Village and thereby committed an offence punishable under Section 436 I.P.C

MEMORANDUM O EVIDENCE.

Witnesses.	points to prove.
1. Katur Ambu Nair S/o Cheveri Raman Nair, Kollangal in Panathady Village.	To prove that his son, the deceased Kunhiraman Nair had taken about 5 acres of land in Chennakad in Malekkal in Panathady Village from the Nileshwar Thamburan about 2 years back on Maruvattam His son Kunhiraman Raman Nair the deceased had built a house on the said land and had planted plantain trees, pepper vines props about 1000 and also some tapioca in the said land. He has been living in the house built by his son since about 3 months along with his daughter Bellachi, younger son Ambu and the deceased son Kunhiraman Nair. On 19-5-52 at about noon time A.1. to A.3. along with 30 others came to their land and built a small hut just close to their house on the north eastern corner and stayed there for the night. He along with his sons Kunhiraman Nair Youngest son Ambu and daughter and grand daughter slept in their house close to the house built by the accused. On 20-5-52 early morning at about 04.00 Hrs. A.1. came to his house and asked them to quit the house. He refused to quit. A.1 to A.3. set fire to the house. They ran out and stayed underneath a tree. After some time before dawn they again went to the place when A.1. Kuriyakose said that they should not remain there. They refused to go when A.1. stabbed his son Kunhiramam, Kunhiraman ran, fell down when again Kuriyakose stabbed his son Kunhiraman. His daughter Bellachi went after him crying that her brother was killed when A.3. stabbed her. At that time A.2. stabbed him on the back and sides with a knife. On seeing the accused stabbing witness Ambu Nair and Parvathi ran away from the place. They were all lying in the land itself. After sometime seeing his son dead A.2. and A.3. along with others demolished their newly built house and set fire to it. Next morning at about 10 A.M. Talayari Ambu came there. After some time Potail and visited the place and sent them in a bus to Hosdrug Hospital for treatment etc.
2. Bellachi D/o witness 1. Malekkal in Panathady Village.	To corroborate witness 1. in all respects and to add that she was stabbed by A.3. and her brother Kunhiraman Nair was stabbed By A.1. and her father was stabbed by A.2. etc.,

3. Ambu Nair S/o wit.1. Malekkal in Panathady Village.

To corroborate witness.1. and 2 in all material facts etc.

4. M. Kunhiraman Nair, V.M. of Panathady.

To prove the possession of the land and to prove his report etc.

5. Ambu S/o Ambu, Tarayar of Panathady.

To prove that on 20-5-52 while he was going towards Panathady side for Revenue Collection he ~~xxxxxxx~~ saw at about 10 A.M. Kunhiraman Nair lying dead Ambu Nair (P.W.1) and Bellachi (P.W.2) lying with serious injuries on their person and also A.2. and A.3. lying injured at Malekkal in Panathady Village in the land called Chennakad belonging to Kunhiraman Nair and that he laid information before the V.M. etc.

6. Raman Nambiar N/o Krishnan Nambiar, Malekkal in Panathady.

To prove that he has been ~~xxxing~~ working under Driver Ananda and living in the house of Kammada just opposite to the scene of occence and also to prove that he did see. A.1. stabbing Kunhiraman Nair to death, A.2. stabbin witness 1. and A.3. stabbing witness 2. ~~xxx~~ and also to prove that the accused A.1 set fire to their newly built house, etc.,

~~&~~ 7. Parvathi D/o witness 2. Panathady.

To corroborate witness 3 in all material facts etc.

8. Kelu Nair, S/o Sankaran Nair, Karyastha of Nileshwar Raja, Panathady.

To prove that Chennakad in Panathady about 5 acres of land belonging to Nileshwar Raja was leased out to Kunhiraman Nair about 2 years back. A.1. was asking him for the the disputed land since last 6 months but he has been repeatedly telling him that since it has been let out to somebody else he could not be given. A.1. was also going to the Raja directly and carrying tales against him with a view to get at the land. The Raja also did not give his consent at any time. A.1. has not done any cultivation so far in the disputed land. A.1. was planting

tapioca 2 years ago on the N.E. side of the Kallar T.B. and he has also had ponam cultivation the same place. Raja the Dist. Board member had told him about the letter received from M.K. Nambiar and he has inspected the entire land in dispute as well as the surrounding land and a proper reply has been sent by P.W. Raja to M.K. Nambiar. Even at that time it has been brought to the notice of A.1. that this disputed land not covered by his document A.1. has no manner of right to enter into the land. There are some improvements in the plot covered by the lease in favour of deceased Mohammad. Neither deceased Mohammad nor his successors have exercised any right of possession over the disputed plot. All along the present Raja as well as his predecessor have been reluctant to lease out land on the road side. The present Raja on principal do not give lands to Travancore people since they are known to create [illegible] trouble in the area and when some of them encroached some plot in the last year the Raja also taken a letter from them undertaking that they would not encroach hereafter. This is a deliberate attempt by A.1. and his set to grab at the la lying on the road side. He also speaks about the adjoining lands and their possession there etc.

9. Kannan Marar N/o Ambu Marar, Karyastha of Nileshwar Raja, Nileshwar.

To prove that the disputed land was not in the possession of A.1. and it was given to the deceased by the Raja. Though A.1. was asking for the land neither the Raja nor the Karyasthan consented to release the land. The land in which A.1. was cultivating tapioca was on the north eastern side of Kallar T.B. This land was never cultivated by A.1. He also speaks of the adjoining land and the particulars relating to possession etc.

10. Subramania Iyer, Land lord, Pullur.

To prove that he has got pepper garden in Chennakad area towards the south Western of the disuted land about ½ a mile distant and also to prove that Mohammad has no land to the north of his

land or to the South of the disputed plot etc.

11. Sri Ravivarama Raja N/o Ramavarma Raja, District Board Member, Nileshwar. — To prove the letter 25-4-52 from M.K. Nambiar, Kottachery and to prove that he has sent a reply to the letter, that the disputed plot is not in the possession of A.1. and that it is not included in accused's document etc

12. M.K. Nambiar N/o M.C. Nambiar, Kanhangad. — To prove his letter to the Raja dated 25-4-52 and also to state that he had received a reply which he had handed over to A.1. and that the A.1. had approached him for the letter etc.

13. Driver Ananda S/o Chikkanna, Badge No. 240 of C.K.N.S. Kotachery. — To prove that he has got about 8 acres of land belonging to Nileshwar Raja just on the east of disputed plot and to the east of his plot is the plot belonging to Mohammad, to the south of his plot is the plot of Issumma. A.1. was not in possession of the disputed plot at any time. Anduka S/o Mohammadh has told him that the eastern plot belonging to him and there was also some dispute between him and that Anduka with respect to the line of demarcation of the respective plots. Andu had also warned him that he should not extend his eastern boundary and encroach on his land on the east, that he had planted about 1000 props for the pepper vines. He had engaged P.W. 6 as his servant. P.W. 6 is putting up along with one Kammar just opposite to the scene of occurence. That he knows A.1. very well. On 20-5-52 at about 9.30 A.M. Driver Laxmana Nayak handed over one letter in Malayalam, to be handed over to Keshava Kamath of S.K.C.C. Stores, Hosdrug. He had handed over the letter to Keshava Kamath at about 10 A.M. etc.,

14. Narashimha Nambudari S/o Sambu Nambudari, Nilshwar. — To speak that he was present on 25-4-52 when A.1. brought the letter from P.W.12 and requested that the Raja to lease out some land in Chennakad, that P.W.11 told him that many of the lands in the area were given out to other tenants and would give out the lands after inspection of the lands etc..

15. H. Madhava Bhat S/o Marauama Bhat Shanbogue o.c. Panathady Village.

To prove the plan o.c the disputed as well as the other properties in the locality o.c Resurvey Nos. 274/1 and 36- 212. 273/14. To prove also that on the eastern side o.c disputed plot is Driver Anandan's. On the eastern side o.c the drivers' plot is 6 acres, I item included in the document in favour o.c Mohammad on the southern side o.c this plot is Issumma's. ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ plot o.c 8 acres. On the southern side o.c Issummaas plot is the second item o.c 6 acres o.c Mohammad's document. On the eastern side o.c Issumma's plot is Beladath Assinar's plot . The road touches the first item o.c Mohammad's plot on the north. Directly to the opposite to the disputed plot on the northern side o.c the road is Perundar tha P. Koran Nair's plot now in the possession of Madhavan Nair, & the Western side Mukkiyapurath Plot is the plot o.c Kolichal Moidine. On the southern side o.c the disputed ~~xxxx~~ plotis a forest extensive in area and ascending to a height to gradiant o.c about 3 furlongs where there are no traces o.c pepper vines or any other improvements. The disputed plot is about 5½ acres. There are pepper vines in the plots identified as included in the document, in favour o.c Mohammad. There are absolutely no traces o.c any portion o.c the forest area to the south o.c ~~xxx~~ the disputed plot having been cultivated or made use o.c by anybody till now etc.,

Krishnan Nair S/o Nittur Kammara Nair, Panathady.

To prove that he is permanently residing in Kodavalth in Pullur Village and he has got ~~xxx~~ lands at Malekkal at Panathady for the last 25 years belonging to Raja and he occassionally ~~xx~~ living with his brother-in-law (his sister's husband) Perundath Koran Nair who has been in possession o.c the plot directly opposite to the disputed plot on the north. The well in the disputed plot was dug by his brother-in-law Koran Nair, about 20 years back with a view to occupy the land being adjoining to his plot but since, the then Raja did not consent to his occupation o.c the land and water was also difficult to get. Nobody occupied that land

until the deceased occupied the land about 2 years ago with the permission of the Raja, etc.

17. H. Keshava Kamath S/o Laxmana Nayak Manager of S.K.C.C. Stores, Hosdrug.

To prove that he knows A.1. since A.1. was a salesman in the co-operative stores, Rajapuram. A.1. did not turn up at his house either during the day time or on the night of 19-5-52. That A.1. had sent a letter to him in Malayalam which he received through Driver Ananda of C.K.N. Service on 20-5-52 and to prove the production of the same etc.

18. Driver Laxmana Nayak of Banu Service Kotachery.

To prove that he has been the driver in Banu Service since about 4 months. Eversince he came to know of A.1. on 19.5.52 while he was coming from Panathady side A.1. stopped the bus at Malekkal and handed over one Malayalam letter and asked him to hand over the same to witness.17. He came to Hosdrug but he forgot to hand over the letter to P.W.17. That the bus went out of order. The bus which was scheduled to start from Kotachery to Panathady at about 04.30 Hrs. He would have reached the scene of occence at about 04.15 Hrs and there he did not hear anything about the stabbing and the situation was appeared to be quiet. He started Panathady at about 07.00 Hrs on 20-5-52 and reached Malekkal at about 07.00 Hrs. When he saw the deceased along with others injured persons lying on the scene of occence. He returned to Kotachery and remembered about the letter given to him by A.1. and handed over to Driver Ananda, P.W.13 with a request to hand over the same to wit 17. etc.

19. Dr. Sri M. Keshava Pai Hony, Medical Officer L.F. Hospital, Hosdrug.

To prove the wound certificates in respect of the injuries found on the person of witnesses 1, 2 and accused 2 and 3 etc.

20. Dr. Sri E.T. Unni, Medical Officer, Govt. Hospital, Kasaragod.

To prove the Post Mortem Certificate issued on the post mortem conducted on the body of the deceased etc.

21. P.C.555 Srinivasa of Hosdrug Station.

To prove that he escorted the dead body of the deceased from the scene of occence to L.F. Hospital, Hosdrug etc.

~~Ext~~ 262

22. Sri K. Kunhi Ahmad, Sub Magistrate, Hosdrug. — To prove the dying Declaration recorded from P.W.1 on the night of 20-5-52 at the hospital etc.

23. J. Anantharam Sub-Inspector of Police, Hosdrug. — To prove his ~~xxx~~ investigation in the case, Seizures made during the investigation etc.,.

24. anab P.M. Mohammad, Inspector of Police, Kasaragod. — To prove the investigation etc.,

~~25 xxxx

N.F.

Jail. Form 30.] Home Dept. I-20—302—4-4-50.

PETITION FOR MERCY.

[C. No. 101326 Cts. I/53. HOME DEPARTMENT.

p3 c.p.

From the Deputy Registrar, Appellate Side, High Court, No. B.C. 193/53

dated 7.5. 1953.

[C. No. ——————.]

From the Superintendent of the Central Jail, Cannanore

p73 c.p. p197 c.p.

No. R. 15/2428/53, dated 23.5. 1953 and no. R.15/3606/53, d. 22.7.53,

forwarding appeal for mercy from Convict No. 4628, P.T. Kuriakose

——————————————————————————

——————————————————————————, under sentence of death

p5.21 c.p.

in South Kanara Sessions Case No. 36 of 1952,

which sentence has been confirmed by the High Court in Criminal

Mp. 23-66 c.p.

Appeal No. 797/52 (R.T. No. 15/53).

FOR ORDERS.

Mem p73 c.p.

The Superintendent of the Central Jail, Cannanore ——————,

certifies that the sentence will not be carried out until a definite reply from the Government has been received.

2. The sentence of death passed on the petitioner is not for an offence against any law exclusively relatable to a matter to which the executive power of the Union extends and should therefore be considered by the State Government in the first instance.

Rue
11.9.53.

p5 c.p. and para 1 pp. 23-24 c.p.

The petitioner (A-1), and his two brothers (A-2 and A-3), were tried by the Sessions Judge, South Kanara, for having, in furtherance of a common intention (1) committed the murder of Kunhiraman Nayar (section 302, I.P.C.), (2) attempted to murder Ambu Nayar and Bellachi (P.Ws. 1 and 2), who are the deceased's father and elder sister respectively, (section 307, I.P.C.), and (3) caused mischief by fire with intention to destroy the deceased's dwelling house (section 436, I.P.C.). The offences were

committed in the early hours of 20.5.52 at a place called Chennakat, in Panathady village. Though the Sessions Judge found a common intention among the accused for the offence of arson, for the other offences he made the accused liable only for their individual acts. He accordingly convicted and sentenced the petitioner to death for having stabbed the deceased for the offence of murder, and, to 7 years' R.I. for the offence of arson. He found A-2 and A-3, who stabbed P.Ws. 1 and 2, respectively, guilty of offences under the latter portion of the first paragraph of section 307, I.P.C. (attempt to murder) and also under section 436, I.P.C. (mischief by fire with intent to destroy house etc.) and convicted and sentenced them to 7 years' R.I. for each offence, the sentences to run concurrently. The convictions and sentences have been confirmed by the High Court.

2. The prosecution case is set out in paras 2-13 and the defence case in para 25 of the Sessions Court's judgment.

3. The motive for the offences was the accused's desire and determination to wrest possession of a parcel of land, about 5 acres in extent, from the deceased and his people who were in occupation of the land, and of the house on it, from about 3 months before the occurrence.

4. Briefly stated, the prosecution case was as follows:-

(a) About twenty-five years prior to the occurrence, one Koran Nair, the father-in-law of the deceased, had made an attempt to clear the "occurrence land", which was then forest, and had given it up and the land had reverted to jungle. In April-May 1951, the deceased, entered into a fresh agreement with the Raja of Nileshwar, the Jenmi, and had entered into possession of the land, of 5 acres, through the Karyasthan, P.W.18. The deceased, had also made payments for this land, Exhibit P-(17-a) in 1951, and Exhibit P-(19-a) in 1952.

P.T.O.

para 3 p6 and para 3 p25 Q.P.

In February-March 1952 the deceased, in pursuance of his lease, cleared the forest on the "occurrence land" which was known in the locality as Chennakat, put up a hut and took up residence there along with his elder sister (P.W.2) and his niece (P.W.3). The deceased's father (P.W.1) and his younger brother (P.W.5), continued to live in their old house in Kallengal, about 1½ miles away; but they used to work along with the deceased on the new land and sometimes stay in the new house. They planted tapioca and plantain on the land as also murikku cuttings to serve as props for pepper vine, and in a portion of the land they sowed paddy. The deceased's possession and enjoyment of the "occurrence land" from February-March 1952 were spoken to not merely by the Karyasthan (P.W.18) and the deceased's own people (P.Ws. 1-3 and 5), but also by a cooly who was at the time working in the adjoining land (P.W.8), the village Taleyari (P.W.10), the village Patel (P.W.11), the Shanbhogue (Karnam or village accountant) of the village (P.W.19), and by two bus drivers who used to pass by the land driving their bus four times a day, viz., P.Ws. 13 and 14, the latter of whom had raised a pepper garden in the land immediately to the east of the "occurrence land" and the Courts were satisfied that the deceased and his people were in undisputed possession of the "occurrence land" until the accused trespassed on it on 19.5.52.

para 4 p6 Q.P.

C.O. - p6, x p14 and x p58 Q.P.

(b) The petitioner and his brothers, who are Syrian Christian settlers from Travancore, in the village of Panathady where the "occurrence land" was situated were anxious to get at the land in question. About 6 months before the occurrence, the petitioner approached the Raja's Karyasthan (P.W.18) and asked him that the "occurrence land" be assigned to him (petitioner) on marupattam. P.W.18 replied that he was too late and that the land had already been granted to the deceased. The petitioner had therefore to resort to other methods. On

x on pp. 6 & 25 Q.P.

para 5 pp6-7 and para 4 p25 Q.P.

17.8.34, the Raja had granted on Kuzhikkanam marupattam (Exhibit P-21), two plots of land in the neighbourhood, to a Moplah, named Mammad. By a document dated 24.4.52 (Exhibit P-16), the petitioner obtained an assignment of the first of the two plots comprised in Exhibit P-21 from certain persons including one Anduka (D.W.4), a son of Mammad, who had in the meantime died. It may be explained here that the case of the accused was that even 3 years before the date of Exhibit P-16 (viz., 24.4.52) the petitioner had obtained possession of the property viz., the "occurrence land", on an oral lease from D.W.4, that ever since he (the petitioner) was in possession of it, that the petitioner pressed for the assignment of the land and accordingly D.W.4 and two other heirs of Mammad (who had died) executed on 21.6.51 an agreement (Exhibit D-9) in favour of the petitioner agreeing to convey their leasehold interest in the property, that Rs.200/- was paid on the date Exhibit D-9 was executed (viz., 21.6.51), and that the balance was subsequently paid and Exhibit P-16 executed. On the other hand, the prosecution suggestion was that Exhibit D-9 was brought into existence, not on the date which it bore, but long afterwards, and contemporaneously with Exhibit P-16; and this suggestion of the prosecution was accepted by the Sessions Judge.

(c) Equipped with the show of title described above, the petitioner went to the Raja's Karyasthan (P.W.18) about 20 days before the occurrence and told him that by the deed Exhibit P-16 he had obtained assignment of the leasehold rights in the land from D.W.4, that he had seen the Raja and that the latter had directed that P.W.18 should put him (the petitioner) in possession of the land. P.W.18 examined the document (Exhibit P-16), found that the land covered by it was not the "occurrence land", which was in the possession of the deceased, but some other plot

Pp. 126-27 of R)

Pp. 122-24 of (R)

R 126-27

para 41-p. 25-26 of P.

R 122-24

R 133-34

ibid

R 122-24

R 133-34

R 122-24

para 5 p26 and para 5 p27 of P.

R 122-24

R 122-24

para 5 f.p. 26-27 C.P.

further away and told the petitioner accordingly. The petitioner made another attempt to get possession of the land in question on 25.4.52, by invoking the aid of a friend of the Raja, C.W.1. That witness wrote to the Raja about the petitioner's claim to the land and got a reply from the Raja 2 days later which he (C.W.1) gave to the petitioner. The Raja's reply was not filed in the Court, and it has to be assumed that it was not favourable to the petitioner.

para 6 f.p. 27-30 and paras 22-24 pp. 10-11 C.P.

(d) On 19.5.52, i.e., the day previous to the occurrence, the petitioner apparently decided to take more direct, drastic and effective measures to get possession of the "occurrence land" as would emerge from a letter (Exhibit P-14) dated 19.5.52, which he sent through a bus-driver (P.W.13) to his friend in Hosdrug (P.W.15), requesting the latter to send 10 Moplahs from somewhere or other by that evening and stating that it was "absolutely necessary". The letter however reached its destination only at about 10 A.M. on 20.5.52 and in the meanwhile the occurrence had taken place in the early hours of 20.5.52. The letter (Exhibit P-14) was seized from P.W.15 by the police on 23.5.52 and the High Court has considered that letter as of considerable importance.

P 121

cf. also para 34, p. 15 C.P.

P 121

(e) On the morning of 19.5.52 - i.e., even before the petitioner handed over the letter (Exhibit P-14) to the bus driver - the three accused together with some 30 other persons entered on the land of the deceased and started weeding amidst the tapioca which the deceased had planted. They dismantled a cow-shed of the deceased. They also put up a hut next to that of the deceased. When the deceased protested, the petitioner threatened him. Seeing that the accused and their men were in such large numbers, the deceased and his relations were afraid to interfere directly. So, the father of the deceased (P.W.1) sent the deceased to report the matter to the Karyasthan (P.W.18), whose residence was about 2 miles away. P.W.18

para 6 p 7 and para 10, p 30 C.P.

P 121

promised the deceased that he would go to Hosdrug and seek the aid of the police and enjoined the deceased to do nothing in the meanwhile but to keep quiet. (P.W.18 was, however unable to go to Hosdrug that day.) The deceased returned home with the information by about mid-day and in view of P.W.18's advice and the over-powering strength of the accused's party neither he nor any of his people, interfered with the accused. By evening, the accused and their men had completed their new hut, and, before night-fall the accused moved into it, vessels and other household effects from their permanent residence about 5 furlongs away. At night-fall they lit a petromax light and hung it up on a post outside the new hut which they occupied. In view of the above events the deceased's father (P.W.1) did not go to his house that night. After night meal, he, his son (the deceased), the latter's younger brother (P.W.5), their sister (P.W.2) and her daughter (P.W.3) lay down in their field hut. At day-break (cock crow time on 20.5.52), the petitioner went to the deceased's hut and, standing outside, called the deceased by name. When the deceased stepped out of the hut, the petitioner told all of them to clear out and go away When they refused, the petitioner replied that he would see to it that they did go out. Thereafter under the directions of the petitioner, his brothers (A-2 and A-3) rolled up cadjan torches, with which they set fire to the thatch of the deceased's house. The fire spread rapidly and, of necessity, the inmates rushed out and went and stood under a tree, a little distance away. After some time, when the roof of the hut had burnt down, the deceased, followed by P.Ws. 1 and 2, went to the place to see if anything could be salvaged Thereon, the petitioner asked the deceased why he had returned and told him to clear away. The deceased replied that he would not go even if he were to be

para 10 pp. 30-31 and para 6, p 7 of P.

para 11, p 31 and para 7, p 9 of P.

para 7, pp 7-8 and para 11 pp 31-32 of P.

para 7 p7-8 and para 12 p32 Cp.

killed. On that, the petitioner stabbed the deceased with a knife which he had with him. The deceased parried the thrust with one arm and ran, but the petitioner pursued him. The deceased tripped and fell down on his face, whereupon the petitioner bent over him and stabbed him on the back once or twice. On seeing this, P.Ws. 1 and 2 ran towards the spot, raising a hue and cry. As they were running, A-2 and A-3 pursued them, and A-2 stabbed P.W.1 over his right shoulder and on his left flank; A-3 stabbed P.W.2, five or six times from behind, with a knife. Both P.Ws. 1 and 2 fell down and soon lost consciousness. The deceased also was lying motionless like dead, on seeing which the petitioner ran away and disappeared. A-2 and A-3 and some of their men who were standing by, then pulled down their new hut which they themselves had constructed the previous day, removed the materials a little away and set fire to them. In addition to P.Ws. 1-3 and 5 who had been sleeping in the hut that night, P.W.8 also spoke to the above events: He (P.W.8) had been working on the previous day (19.5.52) in the field of P.W.14, situated immediately east of the "occurrence land", and, on the night in question, he had been sleeping on the verandah of the house of the deceased's wife nearby. (The deceased's wife was living in her own house, and, according to the deceased's father (P.W.1), she had fallen out with the deceased.)

para 13, p32 and para 9 p8 Cp.

(f) The deceased's niece (P.W.3, a girl of 13) and his younger brother (P.W.5, a youth of about 20), who slept with the deceased in his field hut on the night in question and who had witnessed the occurrence, ran home to their Kallengal house, about 1½ miles away from the scene of occurrence, woke up the deceased's mother and told her all that had happened. At the instance of his mother, P.W.5 went and reported the occurrence to the Karyasthan (P.W.18). The latter asked P.W.5 to go and report the matter to the Patel, saying that he himself

para 8 p8 and para 14, pp32-33 Cp.

would follow. But, when P.W.5 returned home on his way to the Patel's house, his mother would not let him go, as she feared that her son's life might be imperilled if he tried to go to the Patel. Half an hour after P.W.5 left P.W.18, P.W.8, who had also witnessed the occurrence as already stated, went to P.W.18 and told him that the accused had burnt the deceased's house and stabbed the deceased and P.Ws. 1 and 2. P.W.18 instructed P.W.8 to go and tell the Patel, adding that he himself would follow after he had attended to some work he had on hand. In view of his instruction to P.W.8, P.W.18 presumed that he need not hurry himself about seeing the Patel. P.W.8 left for the Patel's house, about 10 miles away. He had nearly got there when he learnt that the Patel was not at home. He therefore returned to the scene of offence, reaching the place some time in the afternoon when he found the Patel there. P.W.18, after attending to his work, went to P.W.1's Kallengal house thinking that the injured persons might have been taken there. On finding that they were not there, he proceeded to the scene of offence, which he reached at about 9-30 A.M. He made enquiries of some people who were standing on the road and was told that the village Taleyari had already come and seen the injured persons. From the road he was able to see P.Ws. 1 and 2 and the deceased lying on the ground and A-2 and A-3 sitting nearby. On seeing, P.W.18, A-2 and A-3 got up. The witness (P.W.18) thought it not prudent to go near them and so he proceeded to Hosdrug and then to Nileshwar, to report the occurrence to his master.

paras 8-9 p 8 and para 14, pp 32-33 Q.B.

para 10 p 8 and para 15, p 33 Q.B.

(g) In the meantime, at about 9 A.M. (on 20-5-52), the Taleyari of the village (P.W.10) heard of the occurrence, went to the scene, found the

para 11 p 8, and para 16 p. 33 Q.B.

para 11, p 8, and para 16, pp. 33-34 Q.P.

deceased's hut burnt down, the deceased lying dead and P.Ws. 1 and 2 lying unconscious with injuries. A-2 and A-3 also were lying on the ground with injuries, but their injuries did not appear to him to be serious. The mother of the accused and another woman were also there. He gave some water to P.Ws. 1 and 2 and proceeded to the Patel's house, about 8 miles away, to report the matter to him. He however met the Patel (P.W.11) at a point about 6 miles from the scene of occurrence and made a report (Exhibit P-9). After recording Exhibit P-9, the Patel sent his reports to the Hosdrug police station and to the Magistrate through another Taleyari and proceeded to the scene of occurrence in a passing lorry. He found the deceased lying dead on the ground and P.Ws. 1 and 2 lying near him with serious injuries. The latter two appeared to be barely conscious, and were quite unable to speak. A little away from them A-2 and A-3, who had slight injuries, and their mother and another woman, were sitting. The Patel (P.W.11), sent P.Ws. 1 and 2 to the Hosdrug hospital by the evening bus with P.Ws. 5 and 8 in charge. A-2 and A-3 and their mother, also got into the bus. P.W.11 waited at the spot until the arrival of the Police, at about midnight.

R 117

para 17 pp 34-35 and para 12, pp Q.P.

(h) The Patel's report reached the police station, 15 miles away, at 5 P.M. the same day (20-5-52) The Sub Inspector of Police, Hosdrug (P.W.20), who received the Patel's report, sent his express reports to all concerned and at 6-15 P.M. he left for the scene of offence in a taxi, along with a doctor (P.W.6). On the way, at about 8 P.M., he met the bus which was coming up with the injured persons. He stopped the bus and questioned P.Ws. 1, 2 and 5, as also A-2 and A-3 and their mother. A-2 made a complaint (Exhibit P-26) on which a separate case was registered. (This was subsequently referred as false). The Sub Inspector detached the doctor (P.W.6) and sent him back in the bus in which the injured persons were travelling

p 8 Q.P.

para 18 p 35 and para 3 p 9 Q.P.

R 129-30

and himself proceeded to the scene of offence, reaching the place at about midnight, and took charge of the case. At the scene of offence, the Sub Inspector found the deceased lying dead. He held the inquest and sent the dead body for post-mortem examination. About 70 feet from where the dead body lay, the Sub Inspector found a completely burnt down hut, the basement of which appeared to be old. Nothing remained in that hut excepting burnt out poles and ash. About 7 feet from the burnt down hut, he found the basement of another hut which appeared to be new, the mud being damp and soft. In front of it, about 10 feet away, there were burnt bamboo and wooden posts and cadjan leaves. There were holes in the basement, indicating that the super-structure had been dismantled, the poles pulled out, and the materials burnt. There were a large number of household articles on that basement, such as copper vessels, eating plates, a steel trunk, mats, a cot and various agricultural implements, none of which showed signs of having been subjected to fire.

para 19, pp. 36-38 and para 13, p.9 C.P.

(i) The doctor (P.W.6), who had returned in the bus in which the injured persons were travelling, examined them thoroughly after he reached the hospital. The deceased's father (P.W.1) had four injuries on him, one of which was grievous and sufficient, in the ordinary course of nature, to cause death. His condition was so grave that the doctor (P.W.6) was very doubtful whether he would survive. He therefore sent intimation to the magistrate (P.W.4) to record his (P.W.1's) dying declaration. At about midnight (on 20/21-5-52), the Sub Magistrate (P.W.4) went to the hospital and recorded a statement (Exhibit P-1) from P.W.1. The petitioner was implicated in that statement, which was later used in the Courts to corroborate P.W.1's evidence.

para 21 p38 and para 14, p.9 C.P.

Cf. also x p26 (R) and para 21 p10 C.P.

R 110-111

The deceased's sister (P.W.2) had 10 injuries, all

incised, on the left arm, hand, back and head. The medical opinion was that each injury was by itself simple but that cumulatively they could well have caused death due to shock and haemorrhage. However, by the time the doctor saw her, P.W.2 had largely recovered from whatever shock she had suffered and her condition was not grave.

A-2 had four injuries, one of which was technically grievous, because the bone (second phalanx of the left index finger) had been cut. A-3 also had four injuries, all of which were simple. The petitioner's mother (D.W.8) was complaining of pain as the result of stick-blows, but the doctor could find no injuries whatsoever on her. He came to the conclusion that she was malingering, for, when he pressed the (alleged) affected parts after distracting her attention, she did not seem to know.

(j) The Sub Inspector arrested all the three accused on 23-5-52 and, after completing the investigation, laid the charge-sheet on 6-6-52.

5. The petitioner's defence in the Committing Court was that the "occurrence land" had been demised by the Raja of Nileshwar to a Moplah called Mammad, that he (the petitioner) had obtained possession of that land from Anduka (D.W.4), a son of Mammad, had been in possession of it for three years, had effected improvements on it and had also paid nigudi porappad and obtained receipts, that the deceased was never in possession of that land, and that the Shanbhogue (Village Accountant) had prepared a false plan to suit the prosecution ~~in the~~ case. He stated that Exhibit P-14 was not a letter that he wrote, that his letter pad was in the box at the scene of occurrence and Exhibit P-14 had been concocted after removing a sheet from that pad, in order to implicate the petitioner in the case, that he was not on the land at the time the offences were committed, that on 19-5-52 (the day previous to the occurrence), he had gone to the house of P.W.15 and spent

the night at his house and that P.W. 15's nephew and brother's son were also there. As it appeared from the evidence, that the articles found on the basement of the hut in which the deceased was said to have been living, had been damaged by fire, whereas the properties found on the basement of the house alleged to have been built by the accused, ~~was~~ were not so affected, the petitioner was specifically asked by the Magistrate whether he desired to say anything in explanation of that circumstance, and the petitioner stated that it was not correct to say that the deceased was residing (in the house), that his house and his articles had been burnt, that as the roof of another house was pulled down and set fire to, the articles there were not burnt and that by another house he meant the house occupied by his mother and brother.

para 28 p41 C.P.

para 29 pp 41-42 C.P. and X p 67 of (R)

In the Sessions Court, the petitioner slightly changed his version regarding his plea of alibi and stated that he spent the night of the 19th, not in the house of P.W.15, but in the house of the latter's brother's son and that brother, whose name was Manjunath, was dead. He further explained in that Court, that the evidence given by the prosecution witnesses to the effect that the deceased was in possession of the "occurrence land" was completely false, that the receipts and jama books about which the Raja's Karyasthan (P.W.18), gave evidence had been fabricated, that two days prior to the occurrence, during the petitioner's absence, P.W.18, with supporters, had trespassed on the land and installed the deceased and P.W.2 in his hut; that as he was helpless and wanted to avoid trouble he constructed a new hut near the old hut with the materials he had already collected, that the petitioner's mother, A-2 and his family, and A-3 took up residence in the new hut while the deceased was living in his old hut, that on the evening of the 19th the petitioner went to Hosdrug

para 30 p42 C.P.

para 31, pp 43-4 C.P.

para 31 pp 43-44 and para 25 Civil, p 13 Q.P.

in a passing lorry for collecting money due to him and stayed that night in Hosdrug, in Manjunath's house. He also gave various details regarding his movements on the morning of the occurrence (20-5-52) which were not, nowever, believed by the Courts, and summed up by saying that all that the prosecution witnesses had said was false, that the accused and their fellow Christian settlers were intensely disliked by the people of the locality and that the people of the locality, big and small, headed by the Raja of Nileshwar, had conspired to bring this false case against the accused and had supported it with the false evidence of the underlings of the Raja, in the hope of securing a conviction and scaring them and their fellow settlers away. Eight witnesses were examined on behalf of the defence.

para 35 p 49 Q.P.

para 44, pp. 49-50, para 27 pp. 13-14 and para 33 p 15 Q.P.

6. As many as 7 witnesses, viz., P.Ws. 8, 10, 11, 13, 14, 18 and 19 deposed that the "occurrence plot" was in the possession of the deceased. The Sessions Judge, who had an opportunity of watching the witnesses when they were in the box, elected to believe them and the High Court considered that he was clearly right in having done so. Both the Sessions Judge and the High Court found it difficult to believe that all those witnesses were wilfully giving false evidence. The High Court held that, even totally excluding the documentary evidence in the case, the oral evidence of the witnesses was ample to make out that the deceased was in possession of the "occurrence plot". It held, that the theory of the accused that the Raja, his Karyasthan (P.W. 18) and the other residents of the locality, conspired together, fabricated false evidence and foisted this case on the accused, appeared wholly incredible, that the Raja had probably never set eyes on A-2 and A-3, that he had probably not seen the petitioner more than once or twice and that he (the Raja) was a party to fabricating a case against persons who were practically perfect strangers to him could hardly be believed. The Sessions Judge had remarked that the agreement

X p 52 Q.P.

para 47, pp. 52-53 Q.P.

(Exhibit D-9) dated 21-6-51 and the registered deed (Exhibit P-16) dated 24-4-52 were in the same hand writing and in the same ink and looked suspiciously as if they were written at the same time, that the stamp paper on which Exhibit D-9 was written was not bought in the name of any of the party to that document and it looked very much as if when taking the assignment under Exhibit P-16, the petitioner was creating evidence of prior possession. The High Court considered that those observations of the Sessions Judge were legitimate. It was satisfied that the accused could never have got any title to the "occurrence plot". Regarding the actual occurrence, the Sessions Judge had no reason to doubt the version put forward by the prosecution. P.Ws. 1, 2, 3, 5 and 8 narrated in detail what happened and their evidence appeared to the High Court to be in every material respect true. The Sessions Judge found the evidence of those witnesses cogent and convincing and substantially in accord with what P.W.1 stated in his dying declaration (Exhibit P.1). Besides, P.Ws. 1 and 2 bore on their persons painful evidence of their presence at the time the crimes were committed. The petitioner's plea of alibi was not substantiated by evidence and the High Court was satisfied that the alibi plea which the petitioner set up had no truth in it and was clearly false. The genuineness of the letter written by the petitioner to his friend P.W.15 on 19-5-52, i.e., the day previous to the occurrence, requesting that 10 Moplahs should be sent by that evening to the place (obviously for the assistance of the petitioner as shock-troops), was established before the Courts beyond the possibility of controversy and the petitioner's counsel in the High Court (Mr. Ethiraj) conceded this point. That letter, written by the petitioner on the 19th afternoon, betrayed an unmistakable determination on the part of the accused to launch an

B 133-34
B 122-24
para 50, p 55 Cr.P.
B 133-34
B 122-24
cf. para p. 52 Cr.P.
cf. p 15 Cr.P.
para 60, p 58 and para 37, p. 16 Cr.P.
B 110-11
cf. paras 35.36 pp. 15-16 Cr.P.
paras 70-74 pp 62-64 Cr.P.
Ex. P-14 R. 121
cf. cf. p 28 Cr.P.
para 7 p 29 Cr.P.
para 44, p 18 Cr.P.

para 44, p18 Q.P.

offensive that night. That was in complete accord with the prosecution case and hardly consistent with that of the defence. In the result, the High Court was satisfied that it had been clearly established by evidence that A-2 and A-3, on the instigation of and in the presence of the petitioner, set fire to the hut in which the deceased and the other inmates were living, that the petitioner stabbed the deceased and killed him, that A-2 stabbed P.W.1 and A-3 stabbed P.W.2 and that the accused were rightly convicted. All the three assessors in the case were also of the opinion that the accused were guilty of the charges.

para 76, p66 Q.P.

para 2-6, p13 Q.P.

7. Post mortem showed that the deceased had suffered three injuries. One of them was an incised wound on the right side of the back, penetrating the right pleural cavity in the sixth intercostal space; that injury had cut the lower lobe of the right lung and had caused two wounds each 1" x ½" x ½" on it. According to the medical opinion, that injury was sufficient in the ordinary course of nature to cause death, that it was quite capable of causing instantaneous death especially if there was pneumo-thorax (rushing of air into the chest cavity), that in the absence of prompt medical attention the injury was a necessarily fatal one and that death was due to shock and haemorrhage and possible sudden pneumo-thorax as a result of that injury.

para 19 p40 Q.P. and p30 of (R)

pp 77-82 and 199-208 Q.P.
pp 85+97 Q.P.

8. Altogether 12 petitions for mercy have been received - two from the convict himself, two from Sri K. Hari (both of them are copies of the same petition and one is a copy which was sent direct to the President of India and forwarded to the State Government for necessary action under the rules), one from the convict's Counsel, one from Sri Kuriakose and Joseph, five from certain residents of Hosdrug Sub-taluk (some of them are copies of the same petition), and one from the convict's wife. In the latter half of his first petition for mercy, the petitioner would appear to admit the guilt; but in his subsequent petition, he has urged almost all

cf. p. 95 Q.P.

pp. 87-90 Q.P.
p93 Q.P.
pp. 99, 115, 131, 155-57 + 173-75 Q.P.
pp. 193-95 Q.P.
J. x on pp. 79 + 81 Q.P.
pp 199-208 Q.P.

the points that were urged by him before, or considered by, the Courts, and claims to be innocent, alleging that the deceased met with his death accidentally at the hands of his brothers. The new points urged in the petitions are dealt with below:-

(1) Sri K. Hari, Kuriakose and Joseph were summoned to give evidence for the accused in the case, but the defence advocate did not examine them, saying that no witnesses were necessary. ~~It is a truth that the~~ The petitioner was not at the "occurrence spot" when the murder took place but was at Kanhangad, 22 miles away from the scene.

pp. 85, 93, 94 & 155 Cr.

The alibi plea which the petitioner set up was considered at great length both by the Session's Judge and the High Court, and the Courts were satisfied that the plea was false.

paras 35-36 pp. 15-16 & 2 pl Cr.

(2) The accused in the case could not get a chance of going about to collect proper evidence as they were in remand during the course of the trial, their bail applications having been rejected from the very beginning of the case. The petitioner is a young man, not entangled in any case till now. He has a young wife, aged only 19 years, and two young children aged 2½ years and 10 months respectively, as well as old parents. He was the main support of his family and the family would become most helpless if the convict is hanged.

4 and 2, p. 99, 4 and 2 on pp. 155-57, 194 & 207 Cr.

also pp. 193-9 Cr

The above circumstances exist in a number of such cases.

(3) The defence Counsel in the Court of Session were the tenants of the relatives of the Nileshwar Raja. They prevented the petitioner from producing several records relating to the matter under dispute, viz., receipts for rents paid for the lands, some of which, the petitioner learnt, were destroyed by the Advocates themselves after obtaining them from the petitioner's father

& p. 207 Cr.

under the plea of defending him.

cf. 4 p6 Cr.P.

The defence Counsel in the Sessions Court were engaged by the petitioner ~~himself~~ and the other accused.

4 p7 Cr.P.

9. The petitioner's act in pursuing the deceased when he was running away and had fallen down and stabbing him in the back with a knife with such force as to penetrate the pleural cavity and pierce the lung shows that his intention was to cause the death of the deceased. The High Court held that there were no extenuating circumstances whatsoever in favour of the petitioner and that the capital sentence imposed on him was the only possible one in the circumstances of this case.

cf. para 46, p18 Cr.P.

para 77, p66 Cr.P.

p75 Cr.P. X, p1150 (R)

10. The petitioner is 25 years old. The deceased also was aged about 25 years at the time of his death. The petitioner and the deceased were not related to each other.

(K)

11. The offence was comitted on 20-5-52 and the petitioner was arrested on 23-5-52. More than 15 months have already elapsed since the petitioner's apprehension and according to the instructions of the Government of India restated in the Home Ministry's letter No: 35/1/52-Judl., dated 17-4-52, while forwarding the convict's petition for mercy for the orders of the President, the State Government should send to the Government of India the fullest possible comment on and explanation of the delay that has occurred in the disposal of this case.

(J)

p69 Cr.P.

(a) Delay in comittal: The charge-sheet was filed before the Sub Magistrate of Hosdrug on 9-6-52. As the Magistrate was a witness in the case the concerned Sub-Divisional Magistrate was addressed for transferring the case to the file of another Magistrate, whereupon the case was transferred to the Sub Magistrate of Kasargod, who took it on file on 26.6.52 and posted it to 8.7.52 for enquiry. There was no delay in the progress of the case thereafter and the accused were committed to the Court of Session on 18.8.52.

cf. H. 69-20 Cr.P.

P.T.O.

C.M.P. No. 1326 Ch. I Bar

(b) Delay subsequent to committal: The committal order was received in the Sessions Court on 22.8.52 and the case was posted to 6.10.52, the nearest available date, for trial. It was represented on that date that P.W.1, the most important witness in the case, was ill and was an in-patient in the Hosdrug hospital and that the doctor had certified that he would not be in a fit condition to move for another 10 days and the Public Prosecutor applied for adjournment, saying that the witness could not be given up. The case was therefore adjourned to 24.11.52, as no earlier date was available. The trial was commenced on that date and was closed on 3.12.52. The Sessions Judge delivered his judgment on 8.12.52. The High Court confirmed the sentence on 16.4.53, the delay presumably being due to earlier postings. The records were received in the Secretariat on 15.5.53. The prisoner's first petition for mercy was received on 25.5.53. Further petitions on behalf of the convict were being received thereafter and a second petition from the convict himself was received on 24.7.53.

p70 C.P.

p69 C.P.

(K)

p3 C.P.

p73 C.P.

p197 C.P.

(o) For orders on the petitions for mercy.

J. Subbaswamy.

3.Oct 53.

the case for the petitioner and his brothers was argued in the High Court by Sri. V.L Ethiraj and the High Court has pronounced a lengthy judgment, carefully examining all the contentions raised before it. Though there is a property dispute in this case, the evidence carefully analysed by the Sessions Judge & the High Court makes it clear that the petitioner & his brothers did not even have a colourable claim to the land in dispute viz "occurrence land".

The High Court remarks " The accused could never have got any title to the occurrence plot". Hammad did not have it and his son Andoka could never have given it to the accused" That the land was in the possession of the deceased & his relations for a no: of years is proved by independent evidence (including those of a neighbouring landholder, the Talayari, the headman & a bus driver who goes past the land four times a day); & the deceased & P.W.s 1 & 2 were stabbed during the course of the high-handed action of the petitioner & his henchmen in taking forcible possession of the land, ejecting the deceased & his relations from their homestead & setting fire to it. When the poor inmates went near to see if anything could be salvaged the petitioner asked the deceased to clear away. The deceased replied he would not go even if he were killed & the petitioner took the deceased at his word and stabbed him. The intention to take forcible possession is amply made out by the letter written by the petitioner on 19.5.52 to P.W.15 asking for 10 Moplahs to be sent. There are no extenuating circumstances whatever & the High Court has remarked " the Capital sentence imposed on him (the petitioner) is the only possible one in the circumstances of this case". There seem to be no grounds for clemency.

X. p.54 Cf.

J. N. S. Raghavan
7.X.53

M (Law)

Petition may be rejected
K. P. Kuttan Nair
20-10-53

P.T.O.

LD

10/326 Cir L
BW

There are no grounds for
recommending any clemency
(Rajamannar
21.10.53

CJ

The petition is dismissed and is hereby rejected.
Sd/- Bakasa
24.10.1953

26.10.53

D.S.I

Drafts submitted.

Draft approved.
29 Oct 53

Issued as memo no. 10/326-9, p209 C.P.
d. 29-10-53.
Issued as Exp. Lr. no, pp 210-11 C.P.
dt. 29-10-53]

From the Supt. C.T., Cannanore, no. A.15/4762/53, d. 4-11-53. p213 C.P.

AS. Submd. for perusal. The

LOI 326 cts 1
Bom

orders of the President of India may be awaited.

Rus. RB 7/11/53. 7.11.53 fbs 7.11.53

Mp 2154/229 C.P.

From the Supdt., C.J., Cannanore, No. R.15/4898/53, d/12.11.53 and No. R.15/4932/53, d/14.11.53.

A.S.1.

The Supdt., C.J., Cannanore, has forwarded two further petitions on behalf of the condemned prisoner, P.T. Kuriakose, concerned in this case, one submitted by the brothers of the condemned prisoner, who were co-accused in the case and were convicted and sentenced to a term of imprisonment, and the other submitted by the condemned prisoner himself. Both the petitions are addressed to the President of India.

Mp 221-227 C.P.

Mp 231-237 C.P.

2. Attention is invited to instruction IV on pp.1-2 of (Q). As 'X' and 'Y' on p.223, 'X' on p.225, 'X' and 'Y' on p.235 and 'X' on p.237 (are C.P. new points urged, it is submitted for orders whether the petitions may be forwarded to the Govt. of India, in continuation of this Govt.'s Express Letter on pp.210-11 c.f., ~~as a case falling under instruction IV (iii) on p.2 of (Q).~~ If so, the draft letter submitted is for approval.

Rus 17/11/53 NB 17.11.53.

The further petns may also be forwarded for what they are worth, with a note that the sentence will not be executed till orders on these are received [this as in accordance with precedents]

28.11.53

[Issued as Ed. Lr. No. LOI 326-II, d. 18/11/53]

P 2358 C.P.

fbs 17/11/53

18/11/53

P.T.O.

22

From the under Secretary to the Govt. of India, Ministry of Home Affairs, no. 32/180/53-Judl., d. 24-11-53

L01326

Pzn & C.P.

7/30/11

A.S. D

Three drafts are submd for approval. The Pzn Note may be sent to Public (D+P), for acceptance, after issue of drafts D + II.

Rm 26/11/53

fgs 26/11/53

S

Pub (D+P) } a.l

The draft Press Note placed below may be perused, and the case returned to Home.

Ka 27.11.53.

28.11

[Despatched 9.0.4 Ed. Lr. R. nos. 4048-49, Home; d. 26-11-53] MPG GG

Home e.o. L01326 IV/53-12, d. 27.11.53

ASSISTANT SECRETARY TO THE GOVERNMENT OF INDIA 28 NOV. HOME DEPARTMENT

A.S. D

Home

Home Dept

The draft Pzn Note below, which has been seen by Public (D+P), may now be circulated for approval. Pub. (D+P) unit, must, bear in mind C.M's. orders, extracted at (iii), at the time of issue of the Pzn Note.

Pub (D+P) L08871/53

25.11.53.

fgs 214863 C

28/11

Pzn 28/11/53.

K.P. Ikkan on 30-11-53

28/11/53 M(Law)

Balakrishnan

30-11-53

40622

Sivaramakrishnan 1-12-53 M(FDC)

1-12-53 CM

1/12/53

A.S. I

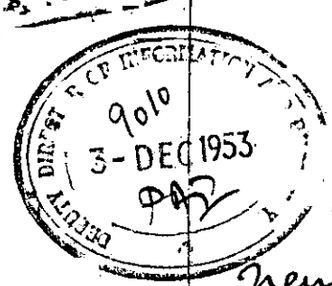
The case may now be sent to Public (I. & P.) for issue of the draft Press Note, with the request that the copies of the Press Note may be sent to the newspapers with a Special covering letter, as usual the date of evacuation has been entered in the draft.

Pub (I & P)
3/12/53

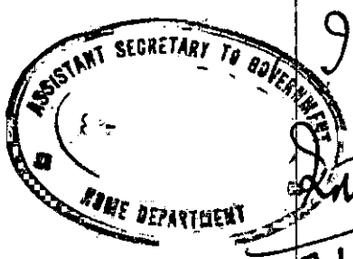
Rec
3/12/53.

Home W.O. 101/326 Cts IV/53-13
3-12-53.

Pub (I & P) Dept.



The press note below has been issued. Copies have been sent to newspapers with a covering letter as usual. The file may be returned to Home Dept.



7/12/53

Pub (I & P) SW 9010/53-7
8.12.53

A.S. II

Home
Home Dept.

The case may be closed.

G
219510

Rec
8/12/53

9-12

Home Department.

Summarising Note.

p5 Cr.P. and para 1, pp.23-24 Cr.P.

The petitioner (A-1) and his two brothers (A-1 and A-2), were tried by the Court of Session for having, in pursuance of a common intention, committed the murder of Kunhiraman Nayar, and for the attempted murder of the father and the elder sister of the deceased, viz., Ambu Nayar and Bellachi, and also for causing mischief by fire by destroying the deceased's dwelling house, in the early hours of 20.5.52, in a place called Chennakat, in Panathady village. The Sessions Judge found common intention only in the arson committed by the three accused. He accordingl convicted and sentenced the petitioner to death for stabbing the deceased and to 7 years' R.I. for the offence of arson. A-2 and A-3 who stabbed Ambu Nayar and Bellachi, respectively, and who took part in the arson, were convicted and awarded 7 years' R.I. each, for each offence, the sentences to run concurrently. The convictions and sentences have been confirmed by the High Court. The judgment of the Court of Session is dated 8.12.52, and that of the High Court is dated 16.4.53.

paras 45-47 of p.18 and pp.5 Cr.P.

paras 77-78 p66 Cr.P.

(R)

cf. X on pp. 6, 14, 25-27 Cr.P.

2. The motive for the offences was the accused's desire to wrest a parcel of land, about 5 acres in extent, from the possession of the deceased and his people who were in occupation of the land, and of the house on it, from about 3 months before the occurrence.

p75 Cr.P. X p115 of (R)

3. The petitioner is 25 years old. The deceased also was aged about 25 years at the time of his death. The petitioner and the deceased were not related to each other.

X p18 Cr.P.

4. The evidence shows that the three accused were bent on driving the deceased and his people away from the land by the use of force if necessary and that they set fire to the deceased's dwelling house in furtherance of their common intention. The petitioner's acts in pursuing the deceased when he was running away from his house and

had fallen down, and stabbing him in the back with a knife with such force as to penetrate the pleural cavity and pierce the lung show that he intended to cause the death of the deceased.

5. The facts of the case as established before the Courts were as follows:-

In pursuance of an agreement with the Raja of Nileshwar, the deceased had entered on the "occurrence land" in April-May 1951, and had made payments in respect of this land. In February-March 1952, the deceased cleared the forest, put up a hut and took up residence in the "occurrence land", along with his elder sister and the latter's daughter. The deceased's father and younger brother used to come and help him on this land. They had planted tapioca, plantain etc. on the land.

The petitioner and his brothers, who are Syrian Christian settlers from Travancore, were anxious to get at the "occurrence land" and had made attempts to get possession of it, but without success. On the morning of 19.5.52, i.e., the day previous to the occurrence, the petitioner trespassed on the land of the deceased, with about thirty others, and commenced weeding the tapioca. They dismantled a cow-shed of the deceased and put up a hut close to the hut of the deceased. When the deceased protested, the petitioner threatened him. Seeing that the accused and their men were in force, the deceased and his relations were afraid to interfere directly. So, the deceased went and reported the matter to the Raja's Karyasthan, whose residence was about 2 miles away. The Karyasthan undertook to seek the aid of the police and enjoined the deceased to do nothing in the meanwhile but to keep quiet. By the evening of the 19th the accused and their men had completed their new hut and moved into it. In view of the previous events, the deceased's father did not go to his permanent house that night. After night meal, the deceased, his younger brother, sister and

niece, as also the father, all slept in their field hut. At about day-break (on 20.5.52), the petitioner went to the deceased's hut and, standing outside, called the deceased by name. When the deceased stepped out, the petitioner told all of them to go away. When they refused, the petitioner replied that he would see to it that they did go out. Thereafter, under the directions of the petitioner, his brothers (A-2 and A-3), rolled up cadjan torches, with which they set fire to the thatch of the deceased's house. The fire spread rapidly and, of necessity, the inmates rushed out, and went and stood under a tree, a little distance away. After some time, when the roof of the hut had burnt down, the deceased, followed by his father and sister, went near ~~to~~ their hut to see if anything could be salvaged. Thereon, the petitioner asked the deceased why he had returned and told him to clear away. The deceased replied that he would not go even if he were to be killed. On that, the petitioner stabbed the deceased with a knife which he had with him. The deceased parried the thrust with one arm and ran, but the petitioner pursued him. The deceased tripped and fell down on his face, whereupon the petitioner bent over him and stabbed him on the back once or twice. On seeing this, the deceased's father and sister ran towards the spot raising a hue and cry. As they were running, A-2 and A-3 pursued them, and A-2 stabbed the father over his right shoulder and on his left flank; A-3 stabbed the deceased's sister five or six times from behind with a knife. Both the father and sister fell down and soon lost consciousness. The deceased also was lying motionless like dead, on seeing which the petitioner ran away and disappeared. A-2 and A-3, and some of their men who were standing by, then pulled down their new hut which they themselves had constructed the previous day, removed the materials a little away and set fire to them. The deceased had died on the spot. At about 9 A.M., the

para 11 p8 and para 16, Mp 33-34 CP.

Exp-9
R. 117

para 17 Mp. 34-35 and para 12 p9 CP.

X p8 CP.

para 18-19 Mp 35-38 and para 13 p9 CP.

para 21 p38, para 14, p9, para 21 p10 CP. and p26 of (R)
Exp-1
R 110-11

para 25 Mp 11-13 CP.

Taleyari of the village who passed by this land, noticed the tragedy, and proceeded to the Patel's house, about 8 miles away, to report the matter to him. He met the Patel at a point 6 miles from the scene of occurrence and made a report. The Patel sent his report to the police, proceeded to the scene of occurrence in a passing lorry, found the deceased lying dead and his father and sister lying near him with serious injuries. The latter two, were barely conscious and quite unable to speak. A little away from them, A-2 and A-3, who had slight injuries, and their mother and another woman were sitting. The Patel sent the deceased's father and sister to the Hosdrug hospital by the evening bus. A-2 and A-3 and their mother also went by that bus. The Patel waited at the spot until the arrival of the police. The Patel's report reached the police, 15 miles away, at 5 P.M. on the same day. The Sub Inspector left for the scene of offence in a taxi at 6-15 P.M., along with a doctor. On the way, at about 8 P.M., he met the bus which was coming up with the injured persons. After stopping the bus and questioning the injured persons, the Sub Inspector sent back the doctor in the bus in which the injured persons were travelling, and himself proceeded to th scene of offence, reaching the place at about midnight, and took charge of the case. After reaching the hospital, the doctor found the condition of the deceased's father so grave that he had his dying declaration recorded by a Magistrate.

The petitioner pleaded alibi. The defence of the other accused was that at about midnight on the night of 19/20-5-52, the Raja's Karyasthan went to the spot with about 50 men, beat A-2 and A-3 and their mother, pulled down the hut which they were occupying and set fire to the materials, that the fire caught on to the old hut (then in the deceased's occupation) and that hut also burnt down, that after day break A-2, A-3 and their mother went to the

occurrence land to see what happened to their belongings when they were attacked by the deceased and his people, that A-2, in self-defence, drew his knife and brandished it about, but whom it struck, or whether it struck anybody at all, he did not know, and that thereafter A-2 and A-3, as also their mother, fell down unconscious. The second accused gave a complaint to this effect, which was duly investigated and referred as false. The defence alleged that the accused and their fellow Christian settlers were disliked by the people of the locality headed by the Raja of Nileshwar, who had conspired to bring this false case against the accused and thus frighten the settlers away.

The Sessions Judge had no reason to doubt the version put forward by the prosecution. The High Court was satisfied that it had been clearly established by the evidence that A-2 and A-3, on the instigation of and in the presence of the petitioner, set fire to the hut in which the deceased and the other inmates were living, that the petitioner stabbed the deceased and killed him, that A-2 stabbed the deceased's father and A-3 stabbed the deceased's sister and that the accused were rightly convicted. The assessors also unanimously opined that the accused were guilty as charged. The High Court held that there were no extenuating circumstances in favour of the petitioner and that the capital sentence was correctly imposed.

For orders.

J. Sathiaswamy.
3 Oct.53.

J.N.P. Rajan
7.X.53

S.

R.O. No. 1013/2-6/53
B.C.R.

35

HOME DEPARTMENT.

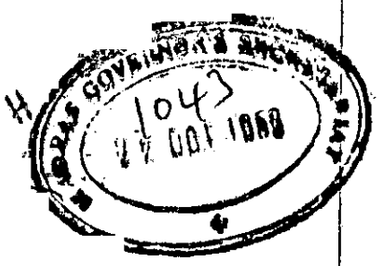
UNOFFICIAL NOTES.

(Condemned prisoner P.T. Kuriakose).

18/19/10

M (Law) I see no ground to exercise clemency

K.P. Kutty
8-10-53



CM I agree
C Rajagopalachari
9.10.53

The petition may be rejected
Kr. Kasa
13.10.1953

Recommended for rejecting [illegible]
19

M (Law) K.P. Kutty
20-10-53

21/10/53 CM Ch 21.10.53

Kr. Prakasa
24.10.1953